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HOUSE OF REPRESENTATIVES

REPORT
No. 98-47

SOCIAL SECURITY AMENDMENTS OF 1983

MARCH 24, 1983.—Ordered to be printed

Mr. ROSTENKOWSKI, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 1900]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1900) to assure the solvency of the Social Security Trust Funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act, with the following table of contents, may be cited as the "Social Security Amendments of 1983".

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PART A—COVERAGE

COVERAGE OF NEWLY HIRED FEDERAL EMPLOYEES

SEC. 101. (a)(1) Section 210(a) of the Social Security Act is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) Service performed in the employ of the United States or any instrumentality of the United States, if such service—

"(A) would be excluded from the term 'employment' for purposes of this title if the provisions of paragraphs (5) and (6) of this subsection as in effect in January 1983 had remained in effect, and

"(B) is performed by an individual who (i) has been continuously in the employ of the United States or an instrumentality thereof since December 31, 1983 (and for this purpose an individual who returns to the performance of such service after being separated therefrom following a previous period of such service shall nevertheless be considered upon such return as having been continuously in the employ of the United States or an instrumentality thereof, regardless of whether the period of such separation began before or after December 31, 1983, if the period of such separation does not exceed 365 consecutive days), or (ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);

except that this paragraph shall not apply with respect to—

"(i) service performed as the President or Vice President of the United States,

"(ii) service performed—

"(I) in a position placed in the Executive Schedule under sections 5312 through 5317 of title 5, United States Code,

"(II) as a noncareer appointee in the Senior Executive Service or a noncareer member of the Senior Foreign Service, or

"(III) in a position to which the individual is appointed by the President (or his designee) or the Vice President under section 105(a)(1), 106(a)(1), or 107 (a)(1) or (b)(1) of title 3, United States Code, if the maximum rate of basic pay for such position is at or above the rate for level V of the Executive Schedule,

"(iii) service performed as the Chief Justice of the United States, an Associate Justice of the Supreme Court, a judge of a United States court of appeals, a judge of a United States District Court (including the district court of a terri-

tory), a judge of the United States Claims Court, a judge of the United States Court of International Trade, a judge of the United States Tax Court, a United States magistrate, or a referee in bankruptcy or United States bankruptcy judge,

"(iv) service performed as a Member, Delegate, or Resident Commissioner of or to the Congress, or

"(v) any other service in the legislative branch of the Federal Government if such service is performed by an individual who, on December 31, 1983, is not subject to subchapter III of chapter 83 of title 5, United States Code;

"(6) Service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

"(A) in a penal institution of the United States by an inmate thereof;

"(B) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

"(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;".

(2) Section 210(p) of such Act is amended by striking out "provisions of—" and all that follows and inserting in lieu thereof "provisions of subsection (a)(5).".

(b)(1) Section 3121(b) of the Internal Revenue Code of 1954 is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following:

"(5) service performed in the employ of the United States or any instrumentality of the United States, if such service—

"(A) would be excluded from the term 'employment' for purposes of this title if the provisions of paragraphs (5) and (6) of this subsection as in effect in January 1983 had remained in effect, and

"(B) is performed by an individual who (i) has been continuously in the employ of the United States or an instrumentality thereof since December 31, 1983 (and for this purpose an individual who returns to the performance of such service after being separated therefrom following a previous period of such service shall nevertheless be considered upon such return as having been continuously in the employ of the United States or an instrumentality thereof, regardless of whether the period of such separation began before or after December 31, 1983, if the period of such separation does not exceed 365 consecutive days), or (ii) is receving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by law of the United States for employees of the Federal Government other than for members of the uniformed services);

except that this paragraph shall not apply with respect to—

"(i) service performed as the President or Vice President of the United States,

(ii) service performed—

"(I) in a position placed in the Executive Schedule under Sections 5312 through 5317 of title 5, United States Code.

"(II) as a noncareer appointee in the Senior Executive Service or a noncareer member of the Senior Foreign Service, or

"(III) in a position to which the individual is appointed by the President (or his designee) or the Vice President under section 105(a)(1), 106(a)(1), or 107 (a)(1) or (b)(1) of title 3, United States Code, if the maximum rate of basic pay for such position is at or above the rate for level V of the Executive Schedule,

"(iii) service performed as the Chief Justice of the United States, an Associate Justice of the Supreme Court, a judge of a United States court of appeals, a judge of a United States district court (including the district court of a territory), a judge of the United States Claims Court, a judge of the United States Court of International Trade, a judge of the United States Tax Court, a United States magistrate, or a referee in bankruptcy or United States bankruptcy judge,

"(iv) service performed as a Member, Delegate, or Resident Commissioner of or to the Congress, or

"(v) any other service in the legislative branch of the Federal Government if such service is performed by an individual who, on December 31, 1983, is not subject to subchapter III of chapter 83 of title 5, United States Code;

"(6) service performed in the employ of the United States or any instrumentality of the United States if such service is performed—

"(A) in a penal institution of the United States by an inmate thereof;

"(B) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the Federal Government), other than as a medical or dental intern or a medical or dental resident in training; or

"(C) by any individual as an employee serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;".

(2) Section 3121(u)(1) of such Code is amended to read as follows:

"(1) In general.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), subsection (b) shall be applied without regard to paragraph (5) thereof.".

(c)(1) Section 209 of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"For purposes of this title, in the case of an individual performing service under the provisions of section 294 of title 28, United States Code (relating to assignment of retired justices and judges to active duty), the term 'wages' shall, subject to the provisions of sub-

section (a) of this section, include any payment under section 371(b) of such title 28 which is received during the period of such service.".

(2) Section 3121(i) of the Internal Revenue Code of 1954 (relating to computation of wages in certain cases) is amended by adding at the end thereof the following new paragraph:

"(5) SERVICE PERFORMED BY CERTAIN RETIRED JUSTICES AND JUDGES.*—For purposes of this chapter, in the case of an individual performing service under the provisions of section 294 of title 28, United States Code (relating to assignment of retired justices and judges to active duty), the term 'wages' shall, subject to the provisions of subsection (a)(1) of this section, include any payment under section 371(b) of such title 28 which is received during the period of such service.".*

(d) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1983.

(e) Nothing in this Act shall reduce the accrued entitlements to future benefits under the Federal Retirement System of current and retired Federal employees and their families.

COVERAGE OF EMPLOYEES OF NONPROFIT ORGANIZATIONS

SEC. 102. (a) Section 210(a)(8) of the Social Security Act is amended—

(1) by striking out "(A)" immediately after "(8)";

(2) by striking out "subparagraph" where it first appears and inserting in lieu thereof "paragraph"; and

(3) by striking out subparagraph (B).

(b)(1) Section 3121(b)(8) of the Internal Revenue Code of 1954 is amended—

(A) by striking out "(A)" immediately after "(8)";

(B) by striking out "subparagraph" where it first appears and inserting in lieu thereof "paragraph"; and

(C) by striking out subparagraph (B).

(2) Section 3121(k) of such Code is repealed.

(3) Section 3121(r) of such Code is amended—

(A) by striking out "subsection (b)(8)(A)" and "section 210(a)(8)(A)" in paragraph (3) and inserting in lieu thereof "subsection (b)(8)" and "section 210(a)(8)", respectively; and

(B) by striking out paragraph (4).

(c) The amendments made by the preceding provisions of this section shall be effective with respect to service performed after December 31, 1983 (but the provisions of sections 2 and 3 of Public Law 94-563 and section 312(c) of Public Law 95-216 shall continue in effect, to the extent applicable, as though such amendments had not been made).

(d) The period for which a certificate is in effect under section 3121(k) of the Internal Revenue Code of 1954 may not be terminated under paragraph (1)(D) or (2) thereof on or after March 31, 1983; but no such certificate shall be effective with respect to any service to which the amendments made by this section apply.

(e)(1) If any individual—

(A) on January 1, 1984, is age 55 or over, and is an employee of an organization described in section 210(a)(8)(B) of the Social Security Act (A) which does not have in effect (on that date) a

waiver certificate under section 3121(k) of the Internal Revenue Code of 1954 and (B) to the employees of which social security coverage is extended on January 1, 1984, solely by reason of the enactment of this section, and

(B) after January 1, 1984, acquires the number of quarters of coverage (within the meaning of section 213 of the Social Security Act) which is required for purposes of this subparagraph under paragraph (2),

then such individual shall be deemed to be a fully insured individual (as defined in section 214 of the Social Security Act) for all of the purposes of title II of such Act.

(2) The number of quarters of coverage which is required for purposes of subparagraph (B) of paragraph (1) shall be determined as follows:

In the case of an individual who on January 1, 1984, is—	*The number of quarters of coverage so required shall be—*
age 60 or over	*6*
age 59 or over but less than age 60	*8*
age 58 or over but less than age 59	*12*
age 57 or over but less than age 58	*16*
age 55 or over but less than age 57	*20.*

DURATION OF AGREEMENTS FOR COVERAGE OF STATE AND LOCAL EMPLOYEES

SEC. 103. (a) Section 218(g) of the Social Security Act is amended to read as follows:

"Duration of Agreement

"(g) No agreement under this section may be terminated, either in its entirety or with respect to any coverage group, on or after the date of the enactment of the Social Security Amendments of 1983.".

(b) The amendment made by subsection (a) shall apply to any agreement in effect under section 218 of the Social Security Act on the date of the enactment of this Act, without regard to whether a notice of termination is in effect on such date, and to any agreement or modification thereof which may become effective under such section 218 after that date.

PART B—COMPUTATION OF BENEFIT AMOUNTS

SHIFT OF COST-OF-LIVING ADJUSTMENTS TO CALENDAR YEAR BASIS

SEC. 111. (a)(1) Section 215(i)(2)(A)(ii) of the Social Security Act is amended by striking out "June" and inserting in lieu thereof "December".

(2) Section 215(i)(2)(A)(iii) of such Act is amended by striking out "May" and insert in lieu thereof "November".

(3) Section 215(i)(2)(B) of such Act is amended by striking out "May" each place it appears and inserting in lieu thereof in each instance "November".

(4) Section 203(f)(8)(A) of such Act is amended by striking out "June" and inserting in lieu thereof "December".

(5) Section 230(a) of such Act is amended by striking out "June" and inserting in lieu thereof "December".

(6) Section 215(i)(2) of such Act as in effect in December 1978, and as applied in certain cases under the provisions of such Act as in effect after December 1978, is amended by striking out "June" in subparagraph (A)(ii) and inserting in lieu thereof "December", and by striking out "May" each place it appears in subparagraph (B) and inserting in lieu thereof in each instance "November".

(7) Section 202(m) of such Act (as it applies in certain cases by reason of section 2 of Public Law 97-123) is amended by striking out "May" and inserting in lieu thereof "November".

(8) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act for years after 1982.

(b)(1) Section 215(i)(1)(A) of the Social Security Act is amended by striking out "March 31" and inserting in lieu thereof "September 30", and by striking out "1974" and inserting in lieu thereof "1982".

(2) Section 215(i)(1)(A) of such Act as in effect in December 1978, and as applied in certain cases under the provisions of such Act as in effect after December 1978, is amended by striking out "March 31" and inserting in lieu thereof "September 30" and by striking out "1974" and inserting in lieu thereof "1982".

(3) The amendments made by this subsection shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act for years after 1983.

(c) Section 215(i)(4) of such Act is amended by inserting, ", and as amended by section 111 (A)(6) and (b)(2) of the Social Security Amendments of 1983," after "as in effect in December 1978" the first place it appears.

(d) Notwithstanding any provision to the contrary in section 215(i) of the Social Security Act, the "base quarter" (as defined in paragraph (1)(A)(i) of such section) in the calendar year 1983 shall be a "cost-of-living computation quarter" within the meaning of paragraph (1)(B) of such section (and shall be deemed to have been determined by the Secretary of Health and Human Services to be a "cost-of-living computation quarter" under paragraph (2)(A) of such section) for all of the purposes of such Act as amended by this section and by other provisions of this Act, without regard to the extent by which the Consumer Price Index has increased since the last prior cost-of-living computation quarter which was established under such paragraph (1)(B).

(e) Section 403(b) of the Omnibus Reconciliation Act of 1982 (Public Law 97-253) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a)(1) shall apply with respect to amounts payable for periods beginning after May 31, 1983.

"(2) In the cases of individuals to whom pension is payable under sections 521, 541, and 542 of title 38, United States Code, the amendment made by subsection (a)(1) shall take effect on the first day after May 31, 1983, that an increase is made in maximum annual rates of pension pursuant to section 3112 of title 38, United States Code.".

COST-OF-LIVING INCREASES TO BE BASED ON EITHER WAGES OR PRICES (WHICHEVER IS LOWER) WHEN BALANCE IN OASDI TRUST FUNDS FALLS BELOW SPECIFIED LEVEL

SEC. 112. (a) Section 215(i)(1) of the Social Security Act is amended—

(1) by striking out "in which" in subparagraph (B) and all that follows down through the first semicolon in such subparagraph and inserting in lieu thereof "with respect to which the applicable increase percentage is 3 percent or more;";

(2) by striking out "and" at the end of subparagraph (B);

(3) by redesignating subparagraph (C) as subparagraph (H); and

(4) by inserting after subparagraph (B) the following new subparagraphs:

"(C) the term 'applicable increase percentage' means—

"(i) with respect to a base quarter or cost-of-living computation quarter in any calendar year before 1985, or in any calendar year after 1984 and before 1989 for which the OASDI fund ratio is 15.0 percent or more, or in any calendar year after 1988 for which the OASDI fund ratio is 20.0 percent or more, the CPI increase percentage; and

"(ii) with respect to a base quarter or cost-of-living computation quarter in any calendar year after 1984 and before 1989 for which the OASDI fund ratio is less than 15.0 percent, or in any calendar year after 1988 for which the OASDI fund ratio is less than 20.0 percent, the CPI increase percentage or the wage increase percentage, whichever (with respect to that quarter) is the lower;

"(D) the term 'CPI increase percentage', with respect to a base quarter or cost-of-living computation quarter in any calendar year, means the percentage (rounded to the nearest one-tenth of 1 percent) by which the Consumer Price Index for that quarter (as prepared by the Department of Labor) exceeds such index for the most recent prior calendar quarter which was a base quarter under subparagraph (A)(ii) or, if later, the most recent cost-of-living computation quarter under subparagraph (B);

"(E) the term 'wage increase percentage', with respect to a base quarter or cost-of-living computation quarter in any calendar year, means the percentage (rounded to the nearest one-tenth of 1 percent) by which the SSA average wage index for the year immediately preceding such calendar year exceeds such index for the year immediately preceding the most recent prior calendar year which included a base quarter under subparagraph (A)(ii) or, if later, which included a cost-of-living computation quarter;

"(F) the term 'OASDI fund ratio', with respect to any calendar year, means the ratio of—

"(i) the combined balance in the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund as of the beginning of such year, including the taxes transferred under section 201(a) on the first day of such year and reduced by the outstanding amount of any loan (including interest thereon) theretofore

made to either such Fund from the Federal Hospital Insurance Trust Fund under section 201(l), as of the beginning of such year, to

"(ii) the total amount which (as estimated by the Secretary) will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during such calendar year for all purposes authorized by section 201 (other than payments of interest on, or repayments of, loans from the Federal Hospital Insurance Trust Fund under section 201(l)), but excluding any transfer payments between such trust funds and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account;

"(G) the term 'SSA average wage index', with respect to any calendar year, means the average of the total wages reported to the Secretary of the Treasury or his delegate for the preceding calendar year as determined for purposes of subsection (b)(3)(A)(ii); and".

(b) Section 215(i)(2)(A)(ii) of such Act is amended by striking out "by the same percentage" and all that follows down through the semicolon, in the sentence immediately following subdivision (III), and inserting in lieu thereof "by the applicable increase percentage;".

(c) Section 215(i) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5)(A) If—

"(i) with respect to any calendar year the 'applicable increase percentage' was determined under clause (ii) of paragraph (1)(C) rather than under clause (i) of such paragraph, and the increase becoming effective under paragraph (2) in such year was accordingly determined on the basis of the wage increase percentage rather than the CPI increase percentage (or there was no such increase becoming effective under paragraph (2) in that year because the wage increase percentage was less than 3 percent), and

"(ii) for any subsequent calendar year in which an increase under paragraph (2) becomes effective the OASDI fund ratio is greater than 32.0 percent,

then each of the amounts described in subdivisions (I), (II), and (III) of paragraph (2)(A)(ii), as increased under paragraph (2) effective with the month of December in such subsequent calendar year, shall be further increased (effective with such month) by an additional percentage, which shall be determined under subparagraph (B) and shall apply as provided in subparagraph (C).

"(B) The applicable additional percentage by which the amounts described in subdivisions (I), (II), and (III) of paragraph (2)(A)(ii) are to be further increased under subparagraph (A) in the subsequent calendar year involved shall be the amount derived by—

"(i) subtracting (I) the compounded percentage benefit increases that were actually paid under paragraph (2) and this paragraph from (II) the compounded percentage benefit increases that would have been paid if all increases under para-

graph (2) had been made on the basis of the CPI increase percentage,

"(ii) dividing the difference by the sum of the compounded percentage in subdivision (I) and 100 percent, and

"(iii) multiplying such quotient by 100 and rounding to the nearest one-tenth of 1 percent,

with the compounded increases referred to in subdivisions (I) and (II) being measured—

"(iv) in the case of amounts described in subdivision (I) of paragraph (2)(A)(ii), over the period beginning with the calendar year in which monthly benefits described in such subdivision were first increased on the basis of the wage increase percentage and ending with such subsequent calendar year, and

"(v) in the case of amounts described in subdivisions (II) and (III) of paragraph (2)(A)(ii), over the period beginning with the calendar year in which the individual whose primary insurance amount is increased under such subdivision (II) initially became eligible for an old-age or disability insurance benefit, or died before becoming so eligible, and ending with such subsequent calendar year;

except that if the Secretary determines in any case that the application (in accordance with subparagraph (C)) of the additional percentage as computed under the preceding provisions of this subparagraph would cause the OASDI fund ratio to fall below 32.0 percent in the calendar year immediately following such subsequent year, he shall reduce such applicable additional percentage to the extent necessary to ensure that the OASDI fund ratio will remain at or above 32.0 percent through the end of such following year.

"(C) Any applicable additional percentage increase in an amount described in subdivision (I), (II), or (III) of paragraph (2)(A)(ii), made under this paragraph in any calendar year, shall thereafter be treated for all the purposes of this Act as a part of the increase made in such amount under paragraph (2) for that year.".

(d)(1) Section 215(i)(2)(C) of such Act is amended by adding at the end thereof the following new clause:

"(iii) The Secretary shall determine and promulgate the OASDI fund ratio and the SSA wage index for each calendar year before November 1 of that year, based upon the most recent data then available, and shall include a statement of such fund ratio and wage index (and of the effect such ratio and the level of such index may have upon benefit increases under this subsection) in any notification made under clause (ii) and any determination published under subparagraph (D).".

(2) Section 215(i)(4) of such Act (as amended by section 111(b)(1) of this Act) is further amended by striking out "section 111(b)(2)" and inserting in lieu thereof "sections 111(b)(2) and 112".

(e) The amendments made by the preceding provisions of this section shall apply with respect to monthly benefits under title II of the Social Security Act for months after December 1984.

(f) Notwithstanding anything to the contrary in section 215(i)(1)(F) of the Social Security Act (as added by subsection (a)(4) of this section), the combined balance in the Trust Funds which is to be used in determining the "OASDI fund ratio" with respect to the calendar

year 1985 under such section shall be the estimated combined balance in such Funds as of the close of that year (rather than as of its beginning), including the taxes transferred under section 201(a) on the first day of the year following that year.

ELIMINATION OF WINDFALL BENEFITS FOR INDIVIDUALS RECEIVING PENSIONS FROM NONCOVERED EMPLOYMENT

SEC. 113. (a) Section 215(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) In the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, who—

> *"(i) attains age 62 after 1985 (except where he or she became entitled to a disability insurance benefit before 1986 and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or*
>
> *"(ii) would attain age 62 after 1985 and becomes eligible for a disability insurance benefit after 1985,*

and who first becomes eligible after 1985 for a monthly periodic payment (including a payment determined under subparagraph (C), but excluding a payment under the Railroad Retirement Act of 1974 or 1937) which is based in whole or in part upon his or her earnings for service which did not constitute 'employment' as defined in section 210 for purposes of this title (hereafter in this paragraph and in subsection (d)(5) referred to as 'noncovered service'), the primary insurance amount of that individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be computed or recomputed under subparagraph (B) with respect to the initial month in which the individual becomes eligible for such benefits.

"(B)(i) If paragraph (1) of this subsection would apply to such an individual (except for subparagraph (A) of this paragraph), there shall first be computed an amount equal to the individual's primary insurance amount under the preceding paragraphs of this subsection, except that for purposes of such computation the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1) shall be the percent specified in clause (ii). There shall then be computed (without regard to this paragraph) a second amount, which shall be equal to the individual's primary insurance amount under the preceding paragraphs of this subsection, except that such second amount shall be reduced by an amount equal to one-half of the portion of the monthly periodic payment which is attributable to noncovered service performed after 1956 (with such attribution being based on the proportionate number of years of such noncovered service) and to which the individual is entitled (or is deemed to be entitled) for the initial month of his or her eligibility for old-age or disability insurance benefits. The individual's primary insurance amount shall be the larger of the two amounts computed under this subparagraph (before the application of subsection (i)) and shall be deemed to be computed under paragraph (1) of this subsection for the purpose of applying other provisions of this title.

"(ii) For purposes of clause (i), the percent specified in this clause is—

"(I) 80.0 percent with respect to individuals who initially become eligible for old-age or disability insurance benefits in 1986;

"(II) 70.0 percent with respect to individuals who so become eligible in 1987;

"(III) 60.0 percent with respect to individuals who so become eligible in 1988;

"(IV) 50.0 percent with respect to individuals who so become eligible in 1989; and

"(V) 40.0 percent with respect to individuals who so become eligible in 1990 or thereafter.

"(C)(i) Any periodic payment which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly payment (as determined by the Secretary), and such equivalent monthly payment shall constitute a monthly periodic payment for purposes of this paragraph.

"(ii) In the case of an individual who has elected to receive a periodic payment that has been reduced so as to provide a survivors benefit to any other individual, the payment shall be deemed to be increased (for purposes of any computation under this paragraph or subsection (d)(5)) by the amount of such reduction.

"(iii) If an individual to whom subparagraph (A) applies is eligible for a periodic payment beginning with a month that is subsequent to the month in which he or she becomes eligible for old-age or disability insurance benefits, the amount of that payment (for purposes of subparagraph (B)) shall be deemed to be the amount to which he or she is, or is deemed to be, entitled (subject to clauses (i), (ii), and (iv) of this subparagraph) in such subsequent month.

"(iv) For purposes of this paragraph, the term 'periodic payment' includes a payment payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

"(D) This paragraph shall not apply in the case of an individual who has 30 years or more of coverage (as defined in paragraph (1)(C)(ii)). In the case of an individual who has more than 24 years of coverage but less than 30 years of coverage (as so defined), the percent specified in the applicable subdivision of subparagraph (B)(ii) shall (if such percent is smaller than the percent specified in whichever of the following clauses applies) be deemed to be—

"(i) 80 percent, in the case of an individual who has 29 of such years of coverage;

"(ii) 70 percent, in the case of an individual who has 28 of such years;

"(iii) 60 percent, in the case of an individual who has 27 of such years; and

"(iv) 50 percent, in the case of an individual who has 26 of such years.

"(E) This paragraph shall not apply in the case of an individual who on January 1, 1984—

"(i) is an employee performing service to which social security coverage is extended on that date solely by reason of the amend-

ments made by section 101 of the Social Security Amendments of 1983; or

"(ii) is an employee of a nonprofit organization which (on December 31, 1983) did not have in effect a waiver certificate under section 3121(k) of the Internal Revenue Code of 1954 and to the employees of which social security coverage is extended on that date solely by reason of the amendments made by section 102 of that Act, unless social security coverage had previously extended to service performed by such individual as an employee of that organization under a waiver certificate which was subsequently (prior to December 31, 1983) terminated.".

(b) Section 215(d) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) In the case of an individual whose primary insurance amount is not computed under paragraph (1) of subsection (a) by reason of paragraph (4)(B)(ii) of that subsection, who—

"(A) attains age 62 after 1985 (except where he or she became entitled to a disability insurance benefit before 1986, and remained so entitled in any of the 12 months immediately preceding his or her attainment of age 62), or

"(B) would attain age 62 after 1985 and becomes eligible for a disability insurance benefit after 1985, and who first becomes eligible after 1985 for a monthly periodic payment (including a payment determined under subsection (a)(7)(C), but excluding a payment under the Railroad Retirement Act of 1974 or 1937) which is based (in whole or in part) upon his or her earnings in noncovered service, the primary insurance amount of such individual during his or her concurrent entitlement to such monthly periodic payment and to old-age or disability insurance benefits shall be the primary insurance amount computed or recomputed under this subsection (without regard to this paragraph and before the application of subsection (i)) reduced by an amount equal to the smaller of—

"(i) one-half of the primary insurance amount (computed without regard to this paragraph and before the application of subsection (i)), or

"(ii) one-half of the portion of the monthly periodic payment (or payment determined under subsection (a)(7)(C)) which is attributable to noncovered service performed after 1956 (with such attribution being based on the proportionate number of years of such noncovered service) and to which that individual is entitled (or is deemed to be entitled) for the initial month of his or her eligibility for old-age or disability insurance benefits.

This paragraph shall not apply in the case of any individual to whom subsection (a)(7) would not apply by reason of subparagraph (E) or the first sentence of subparagraph (D) thereof.

(c) Section 215(f) of such Act is amended by adding at the end thereof the following new paragraph:

"(9)(A) In the case of an individual who becomes entitled to a periodic payment determined under subsection (a)(7)(A) (including a payment determined under subsection (a)(7)(C)) in a month subsequent to the first month in which he or she becomes entitled to an

old-age or disability insurance benefit, and whose primary insurance amount has been computed without regard to either such subsection or subsection (d)(5), such individual's primary insurance amount shall be recomputed, in accordance with either such subsection or subsection (d)(5), as may be applicable, effective with the first month of his or her concurrent entitlement to such benefit and such periodic payment.

"(B) If an individual's primary insurance amount has been computed under subsection (a)(7) or (d)(5), and it becomes necessary to recompute that primary insurance amount under this subsection—

"(i) so as to increase the monthly benefit amount payable with respect to such primary insurance amount (except in the case of the individual's death), such increase shall be determined as though such primary insurance amount had initially been computed without regard to subsection (a)(7) or (d)(5), or

"(ii) by reason of the individual's death, such primary insurance amount shall be recomputed without regard to (and as though it had never been computed with regard to) subsection (a)(7) or (d)(5).".

(d) Sections 202(e)(2) and 202(f)(3) of such Act are each amended by striking out "section 215(f)(5) or (6)" wherever it appears and inserting in lieu thereof "section 215(f)(5), 215(f)(6), or 215(f)(9)(B)".

INCREASE IN OLD-AGE INSURANCE BENEFIT AMOUNTS ON ACCOUNT OF DELAYED RETIREMENT

SEC. 114. (a) Section 202(w)(1)(A) of the Social Security Act is amended to read as follows:

"(A) the applicable percentage (as determined under paragraph (6)) of such amount, multiplied by".

(b) Section 202(w) of such Act is further amended by adding at the end thereof the following new paragraph:

"(6) For purposes of paragraph (1)(A), the 'applicable percentage' is—

"(A) 1/12 of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit in any calendar year before 1979;

"(B) 1/4 of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit in any calendar year after 1978 and before 1987;

"(C) in the case of an individual who first becomes eligible for an old-age insurance benefit in a calendar year after 1986 and before 2005, a percentage equal to the applicable percentage in effect under this paragraph for persons who first became eligible for an old-age insurance benefit in the preceding calendar year (as increased pursuant to this subparagraph), plus 1/24 of 1 percent if the calendar year in which that particular individual first becomes eligible for such benefit is not evenly divisible by 2; and

"(D) 2/3 of 1 percent in the case of an individual who first becomes eligible for an old-age insurance benefit in a calendar year after 2004.".

PART C—REVENUE PROVISIONS

SEC. 121. TAXATION OF SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) GENERAL RULE.—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to amounts specifically included in gross income) is amended by redesignating section 86 as section 87 and by inserting after section 85 the following new section:

"SEC. 86. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

"(a) IN GENERAL.—Gross income for the taxable year of any taxpayer described in subsection (b) includes social security benefits in an amount equal to the lesser of—

"(1) one-half of the social security benefits received during the taxable year, or

"(2) one-half of the excess described in subsection (b)(1).

"(b) TAXPAYERS TO WHOM SUBSECTION (a) APPLIES.—

"(1) IN GENERAL.—A taxpayer is described in this subsection if—

"(A) the sum of—

"(i) the modified adjusted gross income of the taxpayer for the taxable year, plus

"(ii) one-half of the social security benefits received during the taxable year, exceeds

"(B) the base amount.

"(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to this section and sections 221 911, 931, and 933, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(c) BASE AMOUNT.—For purposes of this section, the term 'base amount' means—

"(1) except as otherwise provided in this subsection, $25,000,

"(2) $32,000, in the case of a joint return, and

"(3) zero, in the case of a taxpayer who—

"(A) is married at the close of the taxable year (within the meaning of section 143) but does not file a joint return for such year, and

"(B) does not live apart from his spouse at all times during the taxable year.

"(d) SOCIAL SECURITY BENEFIT.—

"(1) IN GENERAL.—For purposes of this section, the term 'social security benefit' means any amount received by the taxpayer by reason of entitlement to—

"(A) a monthly benefit under title II of the Social Security Act, or

"(B) a tier 1 railroad retirement benefit.

For purposes of the preceding sentence, the amount received by any taxpayer shall be determined as if the Social Security Act did not contain section 203(i) thereof.

"(2) ADJUSTMENT FOR REPAYMENTS DURING YEAR.—

"(A) In general.—For purposes of this section, the amount of social security benefits received during any taxable year shall be reduced by any repayment made by the taxpayer during the taxable year of a social security benefit previously received by the taxpayer (whether or not such benefit was received during the taxable year).

"(B) Denial of deduction.—If (but for this subparagraph) any portion of the repayments referred to in subparagraph (A) would have been allowable as a deduction for the taxable year under section 165, such portion shall be allowable as a deduction only to the extent it exceeds the social security benefits received by the taxpayer during the taxable year (and not repaid during such taxable year).

"(3) Workmen's compensation benefits substituted for social security benefits.—For purposes of this section, if, by reason of section 224 of the Social Security Act (or by reason of section 3(a)(1) of the Railroad Retirement Act of 1974), any social security benefit is reduced by reason of the receipt of a benefit under a workmen's compensation act, the term 'social security benefit' includes that portion of such benefit received under the workmen's compensation act which equals such reduction.

"(4) Tier 1 railroad retirement benefit.—For purposes of paragraph (1), the term 'tier 1 railroad retirement benefit' means a monthly benefit under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974.

"(e) Limitation on Amount Included Where Taxpayer Receives Lump-Sum Payment.—

"(1) Limitation.—If—

"(A) any portion of a lump-sum payment of social security benefits received during the taxable year is attributable to prior taxable years, and

"(B) the taxpayer makes an election under this subsection for the taxable year,

then the amount included in gross income under this section for the taxable year by reason of the receipt of such portion shall not exceed the sum of the increases in gross income under this chapter for prior taxable years which would result solely from taking into account such portion in the taxable years to which it is attributable.

"(2) Special rules.—

"(A) Year to which benefit attributable.—For purposes of this subsection, a social security benefit is attributable to a taxable year if the generally applicable payment date for such benefit occurred during such taxable year.

"(B) Election.—An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Such election, once made, may be revoked only with the consent of the Secretary.

"(f) Treatment as Pension or Annuity For Certain Purposes.—For purposes of—

"(1) section 43(c)(2) (defining earned income),

"(2) section 219(f)(1) (defining compensation),

"(3) section 221(b)(2) (defining earned income), and

"(4) section 911(b)(1) (defining foreign earned income),

any social security benefit shall be treated as an amount received as a pension or annuity."

(b) INFORMATION REPORTING.—Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050F. RETURNS RELATING TO SOCIAL SECURITY BENEFITS.

"(a) REQUIREMENT OF REPORTING.—The appropriate Federal official shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

"(1) the—

"(A) aggregate amount of social security benefits paid with respect to any individual during any calendar year,

"(B) aggregate amount of social security benefits repaid by such individual during such calendar year, and

"(C) aggregate reductions under section 224 of the Social Security Act (or under section 3(a)(1) of the Railroad Retirement Act of 1974) in benefits which would otherwise have been paid to such individual during the calendar year on account of amounts received under a workmen's compensation act, and

"(2) the name and address of such individual.

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name of the agency making the payments, and

"(2) the aggregate amount of payments, of repayments, and of reductions, with respect to the individual as shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(c) DEFINITIONS.—For purposes of this section—

"(1) APPROPRIATE FEDERAL OFFICIAL.—The term 'appropriate Federal official' means—

"(A) the Secretary of Health and Human Services in the case of social security benefits described in section 86(d)(1)(A), and

"(B) the Railroad Retirement Board in the case of social security benefits described in section 86(d)(1)(B).

"(2) SOCIAL SECURITY BENEFIT.—The term 'social security benefit' has the meaning given to such term by section 86(d)(1)."

(c) TREATMENT OF NONRESIDENT ALIENS.—

(1) AMENDMENT OF SECTION 871(a).—Subsection (a) of section 871 of such Code (relating to tax on income not connected with United States business) is amended by adding at the end thereof the following new paragraph:

"(3) TAXATION OF SOCIAL SECURITY BENEFITS.—For purposes of this section and section 1441—

"(A) one-half of any social security benefit (as defined in section 86(d)) shall be included in gross income, and

"(B) section 86 shall not apply."

(2) AMENDMENT OF SECTION 1441.—Section 1441 of such Code (relating to withholding of tax on nonresident aliens) is amended by adding at the end thereof the following new subsection:

"(g) CROSS REFERENCE.—

"For provision treating one-half of social security benefits as subject to withholding under this section, see section 871(a)(3)."

(3) DISCLOSURE OF INFORMATION TO SOCIAL SECURITY ADMINISTRATION OR RAILROAD RETIREMENT BOARD.—

(A) IN GENERAL.—Subsection (h) of section 6103 of such Code (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end thereof the following new paragraph:

"(6) WITHHOLDING OF TAX FROM SOCIAL SECURITY BENEFITS.—Upon written request of the payor agency, the Secretary may disclose available return information from the master files of the Internal Revenue Service with respect to the address and status of an individual as a nonresident alien or as a citizen or resident of the United States to the Social Security Administration or the Railroad Retirement Board (whichever is appropriate) for purposes of carrying out its responsibilities for withholding tax under section 1441 from social security benefits (as defined in section 86(d))."

(B) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by inserting "(h)(6)," after "(h)(2)," in the material preceding subparagraph (A) and in subparagraph (F)(ii), thereof.

(C) DISCLOSURE BY FINANCIAL INSTITUTIONS.—Section 1113 of the Right to Financial Privacy Act of 1978 (92 Stat. 3706; 12 U.S.C. 3413) is amended by adding at the end thereof the following new subsection:

"(k)(1) Nothing in this title shall apply to the disclosure by the financial institution of the name and address of any customer to the Department of the Treasury, the Social Security Administration, or the Railroad Retirement Board, where the disclosure of such information is necessary to, and such information is used solely for the purpose of, the proper administration of section 1441 of the Internal Revenue Code of 1954, title II of the Social Security Act, or the Railroad Retirement Act of 1974.

"(2) Notwithstanding any other provision of law, any request authorized by paragraph (1) (and the information contained therein) may be used by the financial institution or its agents solely for the purpose of providing the customer's name and address to the Department of the Treasury, the Social Security Administration, or the Railroad Retirement Board and shall be barred from redisclosure by the financial institution or its agents."

(d) SOCIAL SECURITY BENEFITS TREATED AS UNITED STATES SOURCES.—Subsection (a) of section 861 of such Code (relating to income from sources within the United States) is amended by adding at the end thereof the following new paragraph:

"(8) Social security benefits.—Any social security benefit (as defined in section 86(d))."

(e) Transfers to Trust Funds.—

(1) In general.—There are hereby appropriated to each payor fund amounts equivalent to the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1954 which is attributable to the application of sections 86 and 871(a)(3) of such Code (as added by this section) to payments from such payor fund.

(2) Transfers.—The amounts appropriated by paragraph (1) to any payor fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such paragraph. Any such quarterly payment shall be made on the first day of such quarter and shall take into account social security benefits estimated to be received during such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(3) Definitions.—For purposes of this subsection—

(A) Payor fund.—The term "payor fund" means any trust fund or account from which payments of social security benefits are made.

(B) Social security benefits.—The term "social security benefits" has the meaning given such term by section 86(d)(1) of the Internal Revenue Code of 1954.

(4) Reports.—The Secretary of the Treasury shall submit annual reports to the Congress and to the Secretary of Health and Human Services and the Railroad Retirement Board on—

(A) the transfers made under this subsection during the year, and the methodology used in determining the amount of such transfers and the funds or account to which made, and

(B) the anticipated operation of this subsection during the next 5 years.

(f) Technical Amendments.—

(1) Subsection (a) of section 85 of such Code is amended by striking out "this section," and inserting in lieu thereof "this section, section 86,".

(2) Subparagraph (B) of section 128(c)(3) of such Code (as in effect for taxable years beginning after December 31, 1984) is amended by striking out "85," and inserting in lieu thereof "85, 86,".

(3) The table of sections for part II of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 86 and inserting in lieu thereof the following:

"Sec. 86. Social security and tier 1 railroad retirement benefits.
"Sec. 87. Alcohol fuel credit."

(4) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new item:

"Sec. 6050F. Returns relating to social security benefits."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to benefits received after December 31, 1983, in taxable years ending after such date.

(2) TREATMENT OF CERTAIN LUMP-SUM PAYMENTS RECEIVED AFTER DECEMBER 31, 1983.—The amendments made by this section shall not apply to any portion of a lump-sum payment of social security benefits (as defined in section 86(d) of the Internal Revenue Code of 1954) received after December 31, 1983, if the generally applicable payment date for such portion was before January 1, 1984.

SEC. 122. CREDIT FOR THE ELDERLY AND THE PERMANENTLY AND TOTALLY DISABLED.

(a) GENERAL RULE.—Section 37 of the Internal Revenue Code of 1954 (relating to credit for the elderly) is amended to read as follows:

"SEC. 37. CREDIT FOR THE ELDERLY AND THE PERMANENTLY AND TOTALLY DISABLED.

"(a) GENERAL RULE.—In the case of a qualified individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of such individual's section 37 amount for such taxable year.

"(b) QUALIFIED INDIVIDUAL.—For purposes of this section, the term 'qualified individual' means any individual—

"(1) who has attained age 65 before the close of the taxable year, or

"(2) who retired on disability before the close of the taxable year and who, when he retired, was permanently and totally disabled.

"(c) SECTION 37 AMOUNT.—For purposes of subsection (a)—

"(1) IN GENERAL.—An individual's section 37 amount for the taxable year shall be the applicable initial amount determined under paragraph (2), reduced as provided in paragraph (3) and in subsection (d).

"(2) INITIAL AMOUNT—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the initial amount shall be—

"(i) $5,000 in the case of a single individual, or a joint return where only one spouse is a qualified individual,

"(ii) $7,500 in the case of a joint return where both spouses are qualified individuals, or

"(iii) $3,750 in the case of a married individual filing a separate return.

"(B) LIMITATION IN CASE OF INDIVIDUALS WHO HAVE NOT ATTAINED AGE 65.—

"(i) IN GENERAL.—In the case of a qualified individual who has not attained age 65 before the close of the taxable year, except as provided in clause (ii), the initial amount shall not exceed the disability income for the taxable year.

"(ii) SPECIAL RULES IN CASE OF JOINT RETURN.—In the case of a joint return where both spouses are qualified individuals and at least one spouse has not attained age 65 before the close of the taxable year—

"(I) if both spouses have not attained age 65 before the close of the taxable year, the initial amount shall not exceed the sum of such spouses' disability income, or

"(II) if one spouse has attained age 65 before the close of the taxable year, the initial amount shall not exceed the sum of $5,000 plus the disability income for the taxable year of the spouse who has not attained age 65 before the close of the taxable year.

"(iii) DISABILITY INCOME.—For purposes of this subparagraph, the term 'disability income' means the aggregate amount includable in the gross income of the individual for the taxable year under section 72 or 105(a) to the extent such amount constitutes wages (or payments in lieu of wages) for the period during which the individual is absent from work on account of permanent and total disability.

"(3) REDUCTION.—

"(A) IN GENERAL.—The reduction under this paragraph is an amount equal to the sum of the amounts received by the individual (or, in the case of a joint return, by either spouse) as a pension or annuity or as a disability benefit—

"(i) which is excluded from gross income and payable under—

"(I) title II of the Social Security Act,

"(II) the Railroad Retirement Act of 1974, or

"(III) a law administered by the Veterans' Administration, or

"(ii) which is excluded from gross income under any provision of law not contained in this title.

No reduction shall be made under clause (i) (III) for any amount described in section 104(a)(4).

"(B) TREATMENT OF CERTAIN WORKMEN'S COMPENSATION BENEFITS.—For purposes of subparagraph (A), any amount treated as a social security benefit under section 86(d)(3) shall be treated as a disability benefit received under title II of the Social Security Act.

"(d) LIMITATIONS.—

"(1) ADJUSTED GROSS INCOME LIMITATION.—If the adjusted gross income of the taxpayer exceeds—

"(A) $7,500 in the case of a single individual,

"(B) $10,000 in the case of a joint return, or

"(C) $5,000 in the case of a married individual filing a separate return,

the section 37 amount shall be reduced by one-half of the excess of the adjusted gross income over $7,500, $10,000, or $5,000, as the case may be.

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the credit allowed by this section for the taxable year shall not exceed the amount of the tax imposed by this chapter for such taxable year.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the credit provided by this section shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

"(2) MARITAL STATUS.—Marital status shall be determined under section 143.

"(3) PERMANENT AND TOTAL DISABILITY DEFINED.—An individual is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the existence thereof in such form and manner, and at such times, as the Secretary may require.

"(f) NONRESIDENT ALIEN INELIGIBLE FOR CREDIT.--No credit shall be allowed under this section to any nonresident alien."

(b) REPEAL OF EXCLUSION FOR CERTAIN DISABILITY PAYMENTS.—Subsection (d) of section 105 of such Code (relating to certain disability payments) is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) Sections 41(b)(2), 44A(b)(2), 46(a)(4)(B), 53(a)(2), and 904(g) of such Code are each amended by striking out "relating to credit for the elderly" and inserting in lieu thereof "relating to credit for the elderly and the permanently and totally disabled".

(2) Subsection (a) of section 85 of such Code is amended by striking out ", section 105(d),".

(3) Subparagraph (B) of section 128(c)(3) of such Code (as in effect for taxable years beginning after December 31, 1984) is amended by striking out "105(d),".

(4) Paragraph (3) of section 403(b) of such Code is amended by striking out "sections 105(d) and 911" and inserting in lieu thereof "section 911".

(5) Clause (i) of section 415(c)(3)(C) of such Code is amended by striking out "section 105(d)(4)" and inserting in lieu thereof "section 37(e)(3)".

(6) Paragraph (6) of section 7871(a) of such Code is amended by striking out subparagraph (A), and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(7) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 37 and inserting in lieu thereof the following:

"Sec. 37. Credit for the elderly and the permanently and totally disabled."

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) Transitional rule.—If an individual's annuity starting date was deferred under section 105(d)(6) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this section), such deferral shall end on the first day of such individual's first taxable year beginning after December 31, 1983.

SEC. 123. ACCELERATION OF INCREASES IN FICA TAXES; 1984 EMPLOYEE TAX CREDIT.

(a) Acceleration of Increases in FICA Taxes.—

(1) Tax on employees.—Subsection (a) of section 3101 of the Internal Revenue Code of 1954 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) through (7) and inserting in lieu thereof the following:

"In cases of wages received during:	*The rate shall be:*
1984, 1985, 1986, or 1987	*5.7 percent*
1988 or 1989	*6.06 percent*
1990 or thereafter	*6.2 percent."*

(2) Employer tax.—Subsection (a) of section 3111 of such Code is amended by striking out paragraphs (1) through (7) and inserting in lieu thereof the following:

"In cases of wages paid during:	*The rate shall be:*
1984, 1985, 1986, or 1987	*5.7 percent*
1988 or 1989	*6.06 percent*
1990 or thereafter	*6.2 percent."*

(3) Effective date.—The amendments made by this subsection shall apply to remuneration paid after December 31, 1983.

(b) 1984 Employee Tax Credit.—

(1) In general.—Chapter 25 of such Code is amended by adding at the end thereof the following new section:

"SEC. 3510. CREDIT FOR INCREASED SOCIAL SECURITY EMPLOYEE TAXES AND RAILROAD RETIREMENT TIER 1 EMPLOYEE TAXES IMPOSED DURING 1984.

"(a) General Rule.—There shall be allowed as a credit against the tax imposed by section 3101(a) on wages received during 1984 an amount equal to $^3/_{10}$ of 1 percent of the wages so received.

"(b) Time Credit Allowed.—The credit under subsection (a) shall be taken into account in determining the amount of the tax deducted under section 3102(a).

"(c) Wages.—For purposes of this section, the term 'wages' has the meaning given to such term by section 3121(a).

"(d) Application to Agreements Under Section 218 of the Social Security Act.—For purposes of determining amounts equivalent to the tax imposed by section 3101(a) with respect to remuneration which—

"(1) is covered by an agreement under section 218 of the Social Security Act, and

"(2) is paid during 1984,

the credit allowed by subsection (a) shall be taken into account. A similar rule shall also apply in the case of an agreement under section 3121(l).

"(e) CREDIT AGAINST RAILROAD RETIREMENT EMPLOYEE AND EMPLOYEE REPRESENTATIVE TAXES.—

"(1) IN GENERAL.—There shall be allowed as a credit against the taxes imposed by sections 3201(a) and 3211(a) on compensation paid during 1984 and subject to such taxes at rates determined by reference to section 3101 an amount equal to $^3/_{10}$ of 1 percent of such compensation.

"(2) TIME CREDIT ALLOWED.—The credit under paragraph (1) shall be taken into account in determining the amount of the tax deducted under section 3202(a) (or the amount of the tax under section 3211(a)).

"(3) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given to such term by section 3231(e).

"(f) COORDINATION WITH SECTION 6413(c).—For purposes of subsection (c) of section 6413, in determining the amount of the tax imposed by section 3101 or 3201, any credit allowed by this section shall be taken into account."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following new item.

"Sec. 3510. Credit for increased social security employee taxes and railroad retirement tier 1 employee taxes imposed during 1984."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid during 1984.

(4) DEPOSITS IN SOCIAL SECURITY TRUST FUNDS.—For purposes of subsection (h) of section 218 of the Social Security Act (relating to deposits in social security trust funds of amounts received under section 218 agreements), amounts allowed as a credit pursuant to subsection (d) of section 3510 of the Internal Revenue Code of 1954 (relating to credit for remuneration paid during 1984 which is covered under an agreement under section 218 of the Social Security Act) shall be treated as amounts received under such an agreement.

(5) DEPOSITS IN RAILROAD RETIREMENT ACCOUNT.—For purposes of subsection (a) of section 15 of the Railroad Retirement Act of 1974, amounts allowed as a credit under subsection (e) of section 3510 of the Internal Revenue Code of 1954 shall be treated as amounts covered into the Treasury under subsection (a) of section 3201 of such Code.

SEC. 124. TAXES ON SELF-EMPLOYMENT INCOME; CREDIT AGAINST SUCH TAXES FOR YEARS BEFORE 1990; DEDUCTION OF SUCH TAXES FOR YEARS AFTER 1989.

(a) INCREASE IN RATES.—Subsections (a) and (b) of section 1401 of the Internal Revenue Code of 1954 (relating to rates of tax on self-employment income) are amended to read as follows:

"(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the

following percent of the amount of the self-employment income for such taxable year:

"In the case of a taxable year Beginning after:	And before:	Percent:
December 31, 1983	January 1, 1988	11.40
December 31, 1987	January 1, 1990	12.12
December 31, 1989		12.40

"(b) HOSPITAL INSURANCE.—In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the following percent of the amount of the self-employment income for such taxable year:

"In the case of a taxable year Beginning after:	And before:	Percent:
December 31, 1983	January 1, 1985	2.60
December 31, 1984	January 1, 1986	2.70
December 31, 1985		2.90."

(b) CREDIT FOR YEARS BEFORE 1990 AGAINST SELF-EMPLOYMENT TAXES.—Section 1401 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) CREDIT AGAINST TAXES IMPOSED BY THIS SECTION.—

"(1) IN GENERAL.—In the case of a taxable year beginning before 1990, there shall be allowed as a credit against the taxes imposed by this section for any taxable year an amount equal to the applicable percentage of the self-employment income of the individual for such taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

"In the case of taxable years beginning in:	The applicable percentage is:
1984	2.7
1985	2.3
1986, 1987, 1988, or 1989	2.0."

(c) ALLOWANCE OF DEDUCTION FOR YEARS AFTER 1989 FOR ONE-HALF OF TAXES ON SELF-EMPLOYMENT INCOME.—

(1) IN GENERAL.—Section 164 of such Code (relating to deduction for taxes) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DEDUCTION FOR ONE-HALF OF SELF-EMPLOYMENT TAXES.—

"(1) IN GENERAL.—In the case of an individual, in addition to the taxes described in subsection (a), there shall be allowed as a deduction for the taxable year an amount equal to one-half of the taxes imposed by section 1401 for such taxable year.

"(2) DEDUCTION TREATED AS ATTRIBUTABLE TO TRADE OR BUSINESS.—For purposes of this chapter, the deduction allowed by paragraph (1) shall be treated as attributable to a trade or business carried on by the taxpayer which does not consist of the performance of services by the taxpayer as an employee."

(2) ALTERNATIVE DEDUCTION ALLOWED IN COMPUTING SELF-EMPLOYMENT TAXES.—Subsection (a) of section 1402 of such Code (defining net earnings from self-employment) is amended by striking out "and" at the end of paragraph (11), by redesignating paragraph (12) as paragraph (13), and by inserting after paragraph (11) the following new paragraph:

"(12) in lieu of the deduction provided by section 164(f) (relating to deduction for one-half of self-employment taxes), there shall be allowed a deduction equal to the product of—

"(A) the taxpayer's net earnings from self-employment for the taxable year (determined without regard to this paragraph), and

"(B) one-half of the sum of the rates imposed by subsections (a) and (b) of section 1401 for such year; and".

(3) Conforming amendment to Social Security Act.—Subsection (a) of section 211 of the Social Security Act is amended by striking out "and" at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following new paragraph:

"(11) In lieu of the deduction provided by section 164(f) of the Internal Revenue Code of 1954 (relating to deduction for one-half of self-employment taxes), there shall be allowed a deduction equal to the product of—

"(A) the taxpayer's net earnings from self-employment for the taxable year (determined without regard to this paragraph), and

"(B) one-half of the sum of the rates imposed by subsections (a) and (b) of section 1401 of such Code for such year; and".

(4) Section 164(f) deduction taken into account in computing earned income.—

(A) Subparagraph (A) of section 401(c)(2) of such Code (defining earned income) is amended by striking out "and" at the end of clause (iv), by striking out the period at the end of clause (v) and inserting in lieu thereof ", and", and by inserting after clause (v) the following new clause:

"(vi) with regard to the deduction allowed to the taxpayer by section 164(f)."

(B) Clause (ii) of section 43(c)(2)(A) of such Code is amended by inserting before the period ", but such net earnings shall be determined with regard to the deduction allowed to the taxpayer by section 164(f)".

(5) CONFORMING AMENDMENT.—Subsection (a) of section 275 of such Code (relating to denial of deduction for certain taxes) is amended by adding at the end thereof the following new sentence:

"Paragraph (1) shall not apply to any taxes to the extent such taxes are allowable as a deduction under section 164(f)."

(d) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) Subsection (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1989.

SEC. 125. TREATMENT OF CERTAIN FACULTY PRACTICE PLANS.

(a) General Rule.—For purposes of subsection (s) of section 3121 of the Internal Revenue Code of 1954 (relating to concurrent employment by 2 or more employers)—

(1) the following entities shall be deemed to be related corporations:

(A) a State university which employs health professionals as faculty members at a medical school, and

(B) a faculty practice plan described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code—

(i) which employs faculty members of such medical school, and

(ii) 30 percent or more of the employees of which are concurrently employed by such medical school; and

(2) remuneration which is disbursed by such faculty practice plan to a health professional employed by both such entities shall be deemed to have been actually disbursed by such university as a common paymaster and not to have been actually disbursed by such faculty practice plan.

(b) Effective Date.—The provisions of subsection (a) shall apply to remuneration paid after December 31, 1983.

ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND

Sec. 125. (a) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (K) through (M) and inserting in lieu thereof the following: "(K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1983, and so reported, (L) 1.25 per centum of the wages (as so defined) paid after December 31, 1982, and before January 1, 1984, and so reported, (M) 1.00 per centum of the wages (as so defined) paid after December 31, 1983, and before January 1, 1988, and so reported, (N) 1.06 per centum of the wages (as so defined) paid after December 31, 1987, and before January 1, 1990, and so reported, (O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 2000, and so reported, and (P) 1.42 per centum of the wages (as so defined) paid after December 31, 1999, and so reported,".

(b) Section 201(b)(2) of such Act is amended by striking out clauses (K) through (M) and inserting in lieu thereof the following: "(K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1983, (L) 0.9375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1982, and before January 1, 1984, (M) 1.00 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning

after December 31, 1983, and before January 1, 1988, (N) 1.06 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1987, and before January 1, 1990, (O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 2000, and (P) 1.42 per centum of the self-employment income (as so defined) so reported for any taxable year begining after December 31, 1999,".

PART D—BENEFITS FOR CERTAIN SURVIVING, DIVORCED, AND DISABLED SPOUSES

BENEFITS FOR SURVIVING DIVORCED SPOUSES AND DISABLED WIDOWS AND WIDOWERS WHO REMARRY

SEC. 131. (a)(1) Section 202(e)(3) of the Social Security Act is repealed.

(2) Section 202(e)(4) of such Act is amended to read as follows:

"(4) For purposes of paragraph (1), if—

"(A) a widow or surviving divorced wife marries after attaining age 60 (or after attaining age 50 if she was entitled before such marriage occurred to benefits based on disability under this subsection), or

"(B) a disabled widow or disabled surviving divorced wife described in paragraph (1)(B)(ii) marries after attaining age 50, such marriage shall be deemed not to have occurred.".

(3)(A) Section 202(e) of such Act is further amended by redesignating paragraph (4) (as amended by paragraph (2) of this subsection), and paragraphs (5) through (8), as paragraphs (3) through (7), respectively.

(B) Section 202(e)(1)(B)(ii) of such Act is amended by striking out "(5)" and inserting in lieu thereof "(4)".

(C) Section 202(e)(1)(F) of such Act is amended by striking out "(6)" in clause (i) and "(5)" in clause (ii) and inserting in lieu thereof "(5)" and "(4)", respectively.

(D) Section 202(e)(2)(A) of such Act is amended by striking out "(8)" and inserting in lieu thereof "(7)".

(E) The paragraph of section 202(e) of such Act redesignated as paragraph (5) by subparagraph (A) of this paragraph is amended by striking out "(5)" and inserting in lieu thereof "(4)".

(F) The paragraph of such section 202(e) redesignated as paragraph (7) by subparagraph (A) of this paragraph is amended by striking out "(4)" and inserting in lieu thereof "(3)".

(G) Section 202(k) of such Act is amended by striking out "(e)(4)" each place it appears in paragraphs (2)(B) and (3)(B) and inserting in lieu thereof "(e)(3)".

(H) Section 226(e)(1)(A) of such Act is amended by striking out "202(e)(5)" and inserting in lieu thereof "202(e)(4)".

(b)(1) Section 202(f)(4) of such Act is repealed.

(2) Section 202(f)(5) of such Act is amended to read as follows:

"(5) For purposes of paragraph (1), if—

"(A) a widower marries after attaining age 60 (or after attaining age 50 if he was entitled before such marriage occurred to benefits based on disability under this subsection), or

"(B) a disabled widower described in paragraph (1)(B)(ii) marries after attaining age 50,

such marriage shall be deemed not to have occurred.".

(3)(A) Section 202(f) of such Act is further amended by redesignating paragraph (5) (as amended by paragraph (2) of this subsection), and paragraphs (6) through (8), as paragraphs (4) through (7), respectively.

(B) Section 202(f)(1)(B)(ii) of such Act is amended by striking out "(6)" and inserting in lieu thereof "(5)".

(C) Section 202(f)(1)(F) of such Act is amended by striking out "(7)" in clause (i) and "(6)" in clause (ii) and inserting in lieu thereof "(6)" and "(5)", respectively.

(D) Section 202(f)(2)(A) of such Act is amended by striking out "(5)" and inserting in lieu thereof "(4)".

(E) The paragraph of section 202(f) of such Act redesignated as paragraph (6) by subparagraph (A) of this paragraph is amended by striking out "(6)" and inserting in lieu thereof "(5)".

(F) Section 202(k) of such Act is amended by striking out "(f)(5)" each place it appears in paragraphs (2)(B) and (3)(B) and inserting in lieu thereof "(f)(4)".

(G) Section 226(e)(1)(A) of such Act is amended by striking out "202(f)(6)" and inserting in lieu thereof "202(f)(5)".

(c)(1) Section 202(s)(2) of such Act is amended by striking out "Subsection (f)(4), and so much of subsections (b)(3), (d)(5), (e)(3), (g)(3), and (h)(4)" and inserting in lieu thereof "So much of subsections (b)(3), (d)(5), (g)(3), and (h)(4)".

(2) Section 202(s)(3) of such Act is amended by striking out "(e)(3),".

(d)(1) The amendments made by this section shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months after December 1983.

(2) In the case of an individual who was not entitled to a monthly benefit of the type involved under title II of such Act for December 1983, no benefit shall be paid under such title by reason of such amendments unless proper application for such benefit is made.

ENTITLEMENT TO DIVORCED SPOUSE'S BENEFITS WITHOUT REGARD TO ENTITLEMENT OF INSURED INDIVIDUAL TO BENEFITS; EXEMPTION OF DIVORCED SPOUSE'S BENEFITS FROM DEDUCTION ON ACCOUNT OF WORK

SEC. 132. (a) Section 202(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) Notwithstanding the preceding provisions of this subsection, except as provided in subparagraph (B), the divorced wife of an individual who is not entitled to old-age or disability insurance benefits, but who has attained age 62 and is a fully insured individual (as defined in section 214), if such divorced wife—

"(i) meets the requirements of subparagraphs (A) through (D) of paragraph (1), and

"(ii) has been divorced from such insured individual for not less than 2 years,

shall be entitled to a wife's insurance benefit under this subsection for each month, in such amount, and beginning and ending with *such months, as determined (under regulations of the Secretary) in the manner otherwise provided for wife's insurance benefits under this subsection, as if such insured individual had become entitled to old-age insurance benefits on the date on which the divorced wife first meets the criteria for entitlement set forth in clauses (i) and (ii).*

"(B) A wife's insurance benefit provided under this paragraph which has not otherwise terminated in accordance with subparagraph (E), (F), (H), or (J) of paragraph (1) shall terminate with the month preceding the first month in which the insured individual is no longer a fully insured individual.".

(b)(1)(A) Section 203(b) of such Act is amended—

(i) by inserting "(1)" after "(b)";

(ii) by striking out "(1) such individual's benefit" and "(2) if such individual" and inserting in lieu thereof "(A) such individual's benefit" and "(B) if such individual", respectively;

(iii) by striking out "clauses (1) and (2)" and inserting in lieu thereof "clauses (A) and (B)";

(iv) by striking out "(A) an individual" and "(B) if a deduction" and inserting in lieu thereof "(i) an individual" and "(ii) if a deduction", respectively; and

(v) by adding at the end thereof the following new paragraph:

"(2) When any of the other persons referred to in paragraph (1)(B) is entitled to monthly benefits as a divorced spouse under section 202 (b) or (c) for any month and such person has been so divorced for not less than 2 years, the benefit to which he or she is entitled on the basis of the wages and self-employment income of the individual referred to in paragraph (1) for such month shall be determined without regard to deductions under this subsection as a result of excess earnings of such individual, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the basis of the wages and self-employment income of such individual referred to in paragraph (1) shall be determined as if no such divorced spouse were entitled to benefits for such month.".

(B)(i) Section 203(f)(1) of such Act is amended—

(I) in the first sentence, by inserting "(excluding surviving spouses referred to in subsection (b)(2))" after "all other persons" the first place it appears, and by striking out "all other persons" the second place it appears and inserting in lieu thereof "all such other persons"; and

(II) in the second sentence, by inserting "(excluding divorced spouses referred to in subsection (b)(2))" after "other persons".

(ii) Section 203(f)(7) of such Act is amended by inserting "(excluding divorced spouses referred to in subsection (b)(2))" after "all persons".

(2) Section 203(d)(1) of such Act is amended—

(A) by inserting "(A)" after "(d)(1)"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) When any divorced spouse is entitled to monthly benefits under section 202 (b) or (c) for any month and such divorced spouse has been so divorced for not less than 2 years, the benefit to which he or she is entitled for such month on the basis of the wages and

self-employment income of the individual entitled to old-age insurance benefits referred to in subparagraph (A) shall be determined without regard to deduction under this paragraph as a result of excess earnings of such individual, and the benefits of all other individuals who are entitled for such month to monthly benefits under section 202 on the basis of the wages and self-employment income of such individual referred to in subparagraph (A) shall be determined as if no such divorced spouse were entitled to benefits for such month.".

(c)(1) The amendments made by subsection (a) shall apply with respect to monthly insurance benefits for months after December 1984, but only on the basis of applications filed on or after January 1, 1985.

(2) The amendments made by subsection (b) shall apply with respect to monthly insurance benefits for months after December 1984.

INDEXING OF DEFERRED SURVIVING SPOUSE'S BENEFITS TO RECENT WAGE LEVELS

SEC. 133. (a)(1) Section 202(e)(2) of the Social Security Act is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by striking out "(2)(A) Except" and all that follows down through "If such deceased individual" and inserting in lieu thereof the following:

"(2)(A) Except as provided in subsection (q), paragraph (8) of this subsection, and subparagraph (D) of this paragraph, such widow's insurance benefit for each month shall be equal to the primary insurance amount (as determined for purposes of this subsection after application of subparagraphs (B) and (C)) of such deceased individual.

"(B)(i) For purposes of this subsection, in any case in which such deceased individual dies before attaining age 62 and section 215(a)(1) (as in effect after December 1978) is applicable in determining such individual's primary insurance amount—

"(I) such primary insurance amount shall be determined under the formula set forth in section 215(a)(1)(B)(i) and (ii) which is applicable to individuals who initially become eligible for old-age insurance benefits in the second year after the year specified in clause (ii),

"(II) the year specified in clause (ii) shall be substituted for the second calendar year specified in section 215(b)(3)(A)(ii)(I), and

"(III) such primary insurance amount shall be increased under section 215(i) as if it were the primary insurance amount referred to in section 215(i)(2)(A)(ii)(II), except that it shall be increased only for years beginning after the first year after the year specified in clause (ii).

"(ii) The year specified in this clause is the earlier of—

"(I) the year in which the deceased individual attained age 60, or would have attained age 60 had he lived to that age, or

"(II) the second year preceding the year in which the widow or surviving divorced wife first meets the requirements of para-

graph (1)(B) or the second year preceding the year in which the deceased individual died, whichever is later.

"(iii) This subparagraph shall apply with respect to any benefit under this subsection only to the extent its application does not result in a primary insurance amount for purposes of this subsection which is less than the primary insurance amount otherwise determined for such deceased individual under section 215.

"(C) If such deceased individual".

(2) Section 202(e) of such Act (as amended by paragraph (1) of this subsection) is further amended—

(A) in paragraph (1)(D) and in the matter in paragraph (1) following subparagraph (F)(ii), by inserting "(as determined after application of subparagraphs (B) and (C) of paragraph (2))" after "primary insurance amount"; and

(B) in paragraph (2)(D)(ii), by inserting "(as determined without regard to subparagraph (C))" after "primary insurance amount".

(b)(1) Section 202(f)(3) of such Act is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by striking out "(3)(A) Except" and all that follows down through "If such deceased individual" and inserting in lieu thereof the following:

"(3)(A) Except as provided in subsection (q), paragraph (2) of this subsection, and subparagraph (D) of this paragraph, such widower's insurance benefit for each month shall be equal to the primary insurance amount (as determined for purposes of this subsection after application of subparagraphs (B) and (C)) of such deceased individual.

"(B)(i) For purposes of this subsection, in any case in which such deceased individual dies before attaining age 62 and section 215(a)(1) (as in effect after December 1978) is applicable in determining such individual's primary insurance amount—

"(I) such primary insurance amount shall be determined under the formula set forth in section 215(a)(1)(B) (i) and (ii) which is applicable to individuals who initially become eligible for old-age insurance benefits in the second year after the year specified in clause (ii),

"(II) the year specified in clause (ii) shall be substituted for the second calendar year specified in section 215(b)(3)(A)(ii)(I), and

"(III) such primary insurance amount shall be increased under section 215(i) as if it were the primary insurance amount referred to in section 215(i)(2)(A)(ii)(II), except that it shall be increased only for years beginning after the first year after the year specified in clause (ii).

"(ii) The year specified in this clause is the earlier of—

"(I) the year in which the deceased individual attained age 60, or would have attained age 60 had she lived to that age, or

"(II) the second year preceding the year in which the widower first meets the requirements of paragraph (1)(B) or the second year preceding the year in which the deceased individual died, whichever is later.

"(iii) This subparagraph shall apply with respect to any benefit under this subsection only to the extent its application does not result in a primary insurance amount for purposes of this subsection which is less than the primary insurance amount otherwise determined for such deceased individual under section 215.

"(C) If such deceased individual".

(2) Section 202(f) of such Act (as amended by paragraph (1) of this subsection) is further amended—

(A) in paragraph (1)(D) and in the matter in paragraph (1) following subparagraph (F)(ii), by inserting "(as determined after application of subparagraphs (B) and (C) of paragraph (3))" after "primary insurance amount"; and

(B) in paragraph (3)(D)(ii), by inserting "(as determined without regard to subparagraph (C))" after "primary insurance amount".

(c) The amendments made by this section shall apply with respect to monthly insurance benefits for months after December 1984 for individuals who first meet all criteria for entitlement to benefits under section 202 (e) or (f) of the Social Security Act (other than making application for such benefits) after December 1984.

LIMITATION ON BENEFIT REDUCTION FOR EARLY RETIREMENT IN CASE OF DISABLED WIDOWS AND WIDOWERS

SEC. 134. (a)(1) Section 202(q)(1) of the Social Security Act is amended by striking out the semicolon at the end of subparagraph (B)(ii) and all that follows and inserting in lieu thereof a period.

(2)(A) Section 202(q)(6) of such Act is amended to read as follows:

"(6) For purposes of this subsection, the 'reduction period' for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the period—

"(A) beginning—

"(i) in the case of an old-age or husband's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit,

"(ii) in the case of a wife's insurance benefit, with the first day of the first month for which a certificate described in paragraph (5)(A)(i) is effective, or

"(iii) in the case of a widow's or widower's insurance benefit, with the first day of the first month for which such individual is entitled to such benefit or the first day of the month in which such individual attains age 60, whichever is the later, and

"(B) ending with the last day of the month before the month in which such individual attains retirement age.".

(B) Section 202(q)(3)(G) of such Act is amended by striking out "paragraph (6)(A) (or, if such paragraph does not apply, the period specified in paragraph (6)(B))" and inserting in lieu thereof "paragraph (6)".

(C) Section 202(q) of such Act is further amended, in paragraphs (1)(B)(i), (3)(E)(ii), and (3)(F)(ii)(I), by striking out "paragraph (6)(A)" and inserting in lieu thereof "paragraph (6)".

(3) Section 202(q)(7) of such Act is amended by striking out the matter preceding subparagraph (A) and inserting in lieu thereof the following:

"(7) For purposes of this subsection, the 'adjusted reduction period' for an individual's old-age, wife's, husband's, widow's, or widower's insurance benefit is the reduction period prescribed in paragraph (6) for such benefit, excluding—".

(4) Section 202(q)(10) of such Act is amended—

(A) in that part of the second sentence preceding clause (A), by striking out "or an additional adjusted reduction period";

(B) in clauses (B)(i) and (C)(i), by striking out ", plus the number of months in the adjusted additional reduction period multipled by $^{43}/_{240}$ of 1 percent";

(C) in clause (B)(ii), by striking out "plus the number of months in the additional reduction period multiplied by $^{43}/_{240}$ of 1 percent,"; and

(D) in clause (C)(ii), by striking out "plus the number of months in the adjusted additional reduction period multiplied by $^{43}/_{240}$ of 1 percent.".

(b) Section 202(m)(2)(B) of such Act (as applicable after the enactment of section 2 of Public Law 97-123) is amended by striking out "subsection (q)(6)(A)(ii)" and inserting in lieu thereof "subsection (q)(6)(B)".

(c) The amendments made by this section shall apply with respect to benefits for months after December 1983.

PART E—MECHANISMS TO ASSURE CONTINUED BENEFIT PAYMENTS IN UNEXPECTEDLY ADVERSE CONDITIONS

NORMALIZED CREDITING OF SOCIAL SECURITY TAXES TO TRUST FUNDS

SEC. 141. (a)(1) The last sentence of section 201(a) of the Social Security Act is amended—

(A) by striking out "from time to time" each place it appears and inserting in lieu thereof "monthly on the first day of each calendar month"; and

(B) by striking out "paid to or deposited into the Treasury" and inserting in lieu thereof "to be paid to or deposited into the Treasury during such month".

(2) Section 201(a) of such Act is further amended by adding at the end thereof the following new sentence: "All amounts transferred to either Trust Fund under the preceding sentence shall be invested by the Managing Trustee in the same manner and to the same extent as the other assets of such Trust Fund; and such Trust Fund shall pay interest to the general fund on the amount so transferred on the first day of any month at a rate (calculated on a daily basis, and applied against the difference between the amount so transferred on such first day and the amount which would have been transferred to the Trust Fund up to that day under the procedures in effect on January 1, 1983) equal to the rate earned by the investments of such Fund in the same month under subsection (d).".

(b)(1) The last sentence of section 1817(a) of such Act is amended—

(A) by striking out "from time to time" and inserting in lieu thereof "monthly on the first day of each calendar month"; and

(B) by striking out "paid to or deposited into the Treasury" and inserting in lieu thereof "to be paid to or deposited into the Treasury during such month".

(2) Section 1817(a) of such Act is further amended by adding at the end thereof the following new sentence: "All amounts transferred to the Trust Fund under the preceding sentence shall be invested by the Managing Trustee in the same manner and to the same extent as the other assets of the Trust Fund; and the Trust Fund shall pay interest to the general fund on the amount so transferred on the first day of any month at a rate (calculated on a daily basis, and applied against the difference between the amount so transferred on such first day and the amount which would have been transferred to the Trust Fund up to that day under the procedures in effect on January 1, 1983) equal to the rate earned by the investments of the Trust Fund in the same month under subsection (c).".

(c) The amendments made by this section shall become effective on the first day of the month following the month in which this Act is enacted.

INTERFUND BORROWING EXTENSION

SEC. 142. (a)(1) Section 201(l)(1) of the Social Security Act is amended—

(A) by striking out "January 1983" and inserting in lieu thereof "January 1988"; and

(B) by inserting after "or" the second place it appears ", subject to paragraph (5),".

(2)(A) Section 201(l)(2) of such Act is amended—

(i) by striking out "from time to time" and inserting in lieu thereof "on the last day of each month after such loan is made";

(ii) by striking out "interest" and inserting in lieu thereof "the total interest accrued to such day"; and

(iii) by striking out "the loan were an investment under subsection (d)" and inserting in lieu thereof "such amount had remained in the Depositary Account established with respect to such lending Trust Fund under subsection (d) or section 1817(c)".

(B) The amendment made by this paragraph shall apply with respect to months beginning more than thirty days after the date of enactment of this Act.

(3) Section 201(l)(3) of such Act is amended—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end thereof the following new subparagraphs:

"(B)(i) If on the last day of any year after a loan has been made under paragraph (1) by the Federal Hospital Insurance Trust Fund to the Federal Old-Age and Survivors Trust Fund or the Federal Disability Insurance Trust Fund, the Managing Trustee determines that the OASDI trust fund ratio exceeds 15 percent, he shall trans-

fer from the borrowing Trust Fund to the Federal Hospital Insurance Trust Fund on amount that—

"(I) together with any amounts transferred from another borrowing Trust Fund under this paragraph for such year, will reduce the OASDI trust fund ratio to 15 percent; and

"(II) does not exceed the outstanding balance of such loan.

"(ii) Amounts required to be transferred under clause (i) shall be transferred on the last day of the first month of the year succeeding the year in which the determination described in clause (i) is made.

"(iii) For purposes of this subparagraph, the term 'OASDI trust fund ratio' means, with respect to any calendar year, the ratio of—

"(I) the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to either such Fund from the Federal Hospital Insurance Trust Fund, as of the last day of such calendar year, to

"(II) the amount estimated by the Secretary to be the total amount to be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during the calendar year following such calendar year for all purposes authorized by section 201 (other than payments of interest on, and repayments of, loans from the Federal Hospital Insurance Trust Fund under paragraph (1), but excluding any transfer payments between such trust funds and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account).

"(C)(i) The full amount of all loans made under paragraph (1) (whether made before or after January 1, 1983) shall be repaid at the earliest feasible date and in any event no later than December 31, 1989.

"(ii) For the period after December 31, 1987, and before January 1, 1990, the Managing Trustee shall transfer each month to the Federal Hospital Insurance Trust Fund from any Trust Fund with any amount outstanding on a loan made from the Federal Hospital Insurance Trust Fund under paragraph (1) an amount not less than an amount equal to (I) the amount owed to the Federal Hospital Insurance Trust Fund by such Trust Fund at the beginning of such month (plus the interest accrued on the outstanding balance of such loan during such month), divided by (II) the number of months elapsing after the preceding month and before January 1990. The Managing Trustee may, during this period, transfer larger amounts than prescribed by the preceding sentence."

(4) Section 201(l) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5)(A) No amounts may be borrowed from the Federal Hospital Insurance Trust Fund under paragraph (1) during any month if the Hospital Insurance Trust Fund ratio for such month is less than 10 percent.

"(B) For purposes of this paragraph, the term 'Hospital Insurance trust fund ratio' means, with respect to any month, the ratio of—

"(i) the balance in the Federal Hospital Insurance Trust Fund, reduced by the outstanding amount of any loan (includ-

ing interest thereon) theretofore made to such Trust Fund under this subsection, as of the last day of the second month preceding such month, to

"(ii) the amount obtained by multiplying by twelve the total amount which (as estimated by the Secretary) will be paid from the Federal Hospital Insurance Trust Fund during the month for which such ratio is to be determined (other than payments of interest on, or repayments of loans from another Trust Fund under this subsection), and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfer into the Hospital Insurance Trust Fund from that Account.".

(b)(1) Section 1817(j)(1) of such Act is amended—

(A) by striking out "January 1983" and inserting in lieu thereof "January 1988"; and

(B) by inserting ", subject to paragraph (5)," after "may".

(2)(A) Section 1817(j)(2) of such Act is amended—

(i) by striking out "from time to time" and inserting in lieu thereof "on the last day of each month after such loan is made";

(ii) by striking out "interest" and inserting in lieu thereof "the total interest accrued to such day"; and

(iii) by striking out "the loan were an investment under subsection (c)" and inserting in lieu thereof "such amount had remained in the Depositary Account established with respect to such lending Trust Fund under section 201(d)".

(B) The amendment made by this paragraph shall apply with respect to months beginning more than 30 days after the date of enactment of this Act.

(3) Section 1817(j)(3) of such Act is amended—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end thereof the following new subparagraphs:

"(B)(i) If on the last day of any year after a loan has been made under paragraph (1) by the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund to the Federal Hospital Insurance Trust Fund, the Managing Trustee determines that the Hospital Insurance Trust Fund ratio exceeds 15 percent, he shall transfer from such Trust Fund to the lending trust fund an amount that—

"(I) together with any amounts transferred to another lending trust fund under this paragraph for such year, will reduce Hospital Insurance Trust Fund ratio to 15 percent; and

"(II) does not exceed the outstanding balance of such loan.

"(ii) Amounts required to be transferred under clause (i) shall be transferred on the last day of the first month of the year succeeding the year in which the determination described in clause (i) is made.

"(iii) For purposes of this subparagraph, the term 'Hospital Insurance Trust Fund ratio' means, with respect to any calendar year, the ratio of—

"(I) the balance in the Federal Hospital Insurance Trust Fund, reduced by the amount of any outstanding loan (including interest thereon) from the Federal Old-Age and Survivors

Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as of the last day of such calendar year; to

"(II) the amount estimated by the Secretary to be the total amount to be paid from the Federal Hospital Insurance Trust Fund during the calendar year following such calendar year (other than payments of interest on, and repayments of, loans from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under paragraph (1)), and reducing the amount of any transfer to the Railroad Retirement Account by the amount of any transfers into such Trust Fund from the Railroad Retirement Account.

"(C)(i) The full amount of all loans made under paragraph (1) (whether made before or after January 1, 1983) shall be repaid at the earliest feasible date and in any event no later than December 31, 1989.".

"(ii) For the period after December 31, 1987 and before January 1, 1990, the Managing Trustee shall transfer each month from the Federal Hospital Insurance Trust Fund to any Trust Fund that is owed any amount by the Federal Hospital Insurance Trust Fund on a loan made under paragraph (1), an amount not less than an amount equal to (I) of the amount owed to such Trust Fund by the Federal Hospital Insurance Trust Fund at the beginning of such month (plus the interest accrued on the outstanding balance of such loan during such month), divided by (II) the number of months elapsing after the preceding month and before January 1990. The Managing Trustee may, during this period, transfer larger amounts than prescribed by the preceding sentence.".

(4) Section 1817(j) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5)(A) No amounts may be loaned by the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund under paragraph (1) during any month if the OASDI trust fund ratio for such month is less than 10 percent.

"(B) For purposes of this paragraph, the term 'OASDI trust fund ratio' means, with respect to any month, the ratio of—

"(i) the combined balance in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to either such Trust Fund from the Federal Hospital Insurance Trust Fund under section 201(l), as of the last day of the second month preceding such month, to

"(ii) the amount obtained by multiplying by twelve the total amount which (as estimated by the Secretary) will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund during the month for which such ratio is to be determined for all purposes authorized by section 201 (other than payments of interest on, or repayments of, loans from the Federal Hospital Insurance Trust Fund under section 201(l)), but excluding any transfer payments between such trust funds and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfers into either such trust fund from that Account.".

RECOMMENDATIONS BY BOARD OF TRUSTEES TO REMEDY INADEQUATE BALANCES IN THE SOCIAL SECURITY TRUST FUNDS

SEC. 143. Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"RECOMMENDATIONS BY BOARD OF TRUSTEES TO REMEDY INADEQUATE BALANCES IN THE SOCIAL SECURITY TRUST FUNDS

"SEC. 709. (a) If the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund determines at any time that the balance ratio of such Trust Fund for any calendar year may become less than 20 percent, the Board shall promptly submit to each House of the Congress a report setting forth its recommendations for statutory adjustments affecting the receipts and disbursements of such Trust Fund necessary to maintain the balance ratio of such Trust Fund at not less than 20 percent, with due regard to the economic conditions which created such inadequacy and the amount of time necessary to alleviate such inadequacy in a prudent manner. The report shall set forth specifically the extent to which benefits would have to be reduced, taxes under sections 1401, 3101, or 3111 of the Internal Revenue Code of 1954 would have to be increased, or a combination thereof, in order to obtain the objectives referred to in the preceding sentence.

"(b) For purposes of this section, the term 'balance ratio' means, with respect to any calendar year in connection with any Trust Fund referred to in subsection (a), the ratio of—

> *"(1) the balance in such Trust Fund, reduced by the outstanding amount of any loan (including interest thereon) theretofore made to such Trust Fund under section 201(l), as of the beginning of each year, to*
>
> *"(2) the total amount which (as estimated by the Secretary) will be paid from such Trust Fund during such calendar year for all purposes authorized by section 201, 1817, or 1841 (as applicable), other than payments of interest on, or payments of, loans under section 201(l), but excluding any transfer payments between such Trust Fund and any other Trust Fund referred to in subsection (a) and reducing the amount of any transfers to the Railroad Retirement Account by the amount of any transfers into such Trust Fund from that Account.".*

PART F—OTHER FINANCING AMENDMENTS

FINANCING OF NONCONTRIBUTORY MILITARY WAGE CREDITS

SEC. 151. (a) Section 217(g) of the Social Security Act is amended to read as follows:

"Appropriation to Trust Funds

"(g)(1) Within thirty days after the date of the enactment of the Social Security Amendments of 1983, the Secretary shall determine the amount equal to the excess of—

> *"(A) the actuarial present value as of such date of enactment of the past and future benefit payments from the Federal Old-*

Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under this title and title XVIII, together with associated administrative costs, resulting from the operation of this section (other than this subsection) and section 210 of this Act as in effect before the enactment of the Social Security Act Amendments of 1950, over

"(B) any amounts previously transferred from the general fund of the Treasury to such Trust Funds pursuant to the provisions of this subsection as in effect immediately before the date of the enactment of the Social Security Act Amendments of 1983.

Such actuarial present value shall be based on the relevant actuarial assumptions set forth in the report of the Board of Trustees of each such Trust Fund for 1983 under sections 201(c) and 1817(b). Within thirty days after the date of the enactment of the Social Security Act Amendments of 1983, the Secretary of the Treasury shall transfer the amount determined under this paragraph with respect to each such Trust Fund to such Trust Fund from amounts in the general fund of the Treasury not otherwise appropriated.

"(2) The Secretary shall revise the amount determined under paragraph (1) with respect to each such Trust Fund in 1985 and each fifth year thereafter, as determined appropriate by the Secretary from data which becomes available to him after the date of the determination under paragraph (1) on the basis of the amount of benefits and administrative expenses actually paid from such Trust Fund under this title or title XVIII and the relevant actuarial assumptions set forth in the report of the Board of Trustees of such Trust Fund for such year under section 201(c) or 1817(b). Within 30 days after any such revision, the Secretary of the Treasury, to the extent provided in advance in appropriation Acts, shall transfer to such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, or from such Trust Fund to the general fund of the Treasury, such amounts as the Secretary of the Treasury determines necessary to compensate for such revision.".

(b)(1) Section 229(b) of such Act is amended to read as follows:

"(b) There are authorized to be appropriated to each of the Trust Funds, consisting of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund, for transfer on July 1 of each calendar year to such Trust Fund from amounts in the general fund in the Treasury not otherwise appropriated, an amount equal to the total of the additional amounts which would be appropriated to such Trust Fund for the fiscal year ending September 30 of such calendar year under section 201 or 1817 of this Act if the amounts of the additional wages deemed to have been paid for such calendar year by reason of subsection (a) constituted remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954. Amounts authorized to be appropriated under this subsection for transfer on July 1 of each calendar year shall be determined on the basis of estimates of the Secretary of the wages deemed to be paid for such calendar year under subsection (a); and proper adjustments shall be made in amounts author-

ized to be appropriated for subsequent transfer to the extent prior estimates were in excess of or were less than such wages so deemed to be paid.".

(2) The amendment made by paragraph (1) shall be effective with respect to wages deemed to have been paid for calendar years after 1983.

(3)(A) Within thirty days after the date of the enactment of this Act, the Secretary of Health and Human Services shall determine the additional amounts which would have been appropriated to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund under sections 201 and 1817 of the Social Security Act if the additional wages deemed to have been paid under section 229(a) of the Social Security Act prior to 1984 had constituted remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1954) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954, and the amount of interest which would have been earned on such amounts if they had been so appropriated.

(B)(i) Within thirty days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer to each such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to the amount determined with respect to such Trust Fund under subparagraph (A), less any amount appropriated to such Trust Fund pursuant to the provisions of section 229(b) of the Social Security Act prior to the date of the determination made under subparagraph (A) with respect to wages deemed to have been paid for calendar years prior to 1984.

(ii) The Secretary of Health and Human Services shall revise the amount determined under clause (i) with respect to each such Trust Fund within one year after the date of the transfer made to such Trust Fund under clause (i), as determined appropriate by such Secretary from data which becomes available to him after the date of the transfer under clause (i). Within 30 days after any such revision, the Secretary of the Treasury shall transfer to such Trust Fund, from amounts in the general fund of the Treasury not otherwise appropriated, or from such Trust Fund to the general fund of the Treasury, such amounts as the Secretary of Health and Human Services certifies as necessary to take into account such revision.

CREDITING AMOUNTS OF UNNEGOTIATED CHECKS TO TRUST FUNDS

SEC. 153. (a) The Secretary of the Treasury shall take such actions as may be necessary to ensure that amounts of checks for benefits under title II of the Social Security Act which have not been presented for payment within a reasonable length of time (not to exceed twelve months) after issuance are credited to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever may be the fund from which the check was issued, to the extent provided in advance in appropriation Acts. Amounts of any such check shall be recharged to the fund from which they were issued if payment is subsequently made on such check.

(b)(1) The Secretary of the Treasury shall transfer from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund and to the Federal Disability Insurance Trust Fund, as appropriate, as soon as possible after the date of the enactment of this Act, such sums as may be necessary to reimburse such Trust Funds in the total amounts of all currently unnegotiated benefit checks (including interest thereon), to the extent provided in advance in appropriation Acts. After the amounts appropriated by this subsection have been transferred to the Trust Funds, the provisions of subsection (a) shall be applicable.

(2) As used in paragraph (1), the term "currently unnegotiated benefit checks" means the checks issued under title II of the Social Security Act prior to the date of the enactment of this Act, which remain unnegotiated after the twelfth month following the date on which they were issued.

FLOAT PERIODS

SEC. 154. (a) The Secretary of Health and Human Services and the Secretary of the Treasury shall jointly undertake, as soon as possible after the date of the enactment of this Act, a thorough study with respect to the period of time (hereafter in this section referred to as the "float period") between the issuance of checks from the general fund of the Treasury in payment of monthly insurance benefits under title II of the Social Security Act and the transfer to the general fund from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as applicable, of the amounts necessary to compensate the general fund for the issuance of such checks. Each such Secretary shall consult the other regularly during the course of the study and shall, as appropriate, provide the other with such information and assistance as he may require.

(b) The study shall include—

(1) an investigation of the feasibility and desirability of maintaining the float periods which are allowed as of the date of the enactment of this section in the procedures governing the payment of monthly insurance benefits under title II of the Social Security Act, and of the general feasibility and desirability of making adjustments in such procedures with respect to float periods; and

(2) a separate investigation of the feasibility and desirability of providing, as a specific form of adjustment in such procedures with respect to float periods, for the transfer each day to the general fund of the Treasury from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as appropriate, of amounts equal to the amounts of the checks referred to in subsection (a) which are paid by the Federal Reserve Banks on such day.

(c) In conducting the study required by subsection (a), the Secretaries shall consult, as appropriate, the Director of the Office of Management and Budget, and the Director shall provide the Secretaries with such information and assistance as they may require. The Secretaries shall also solicit the views of other appropriate officials and organizations.

(d)(1) Not later than six months after the date of the enactment of this Act, the Secretaries shall submit to the President and the Congress a report of the findings of the investigation required by subsection (b)(1), and the Secretary of the Treasury shall by regulation make such adjustments in the procedures governing the payment of monthly insurance benefits under title II of the Social Security Act with respect to float periods (other than adjustments in the form described in subsection (b)(2)) as may have been found in such investigation to be necessary or appropriate.

(2) Not later than twelve months after the date of the enactment of this Act, the Secretaries shall submit to the President and the Congress a report of the findings of the separate investigation required by subsection (b)(2), together with their recommendations with respect thereto; and, to the extent necessary or appropriate to carry out such recommendations, the Secretary of the Treasury shall by regulation make adjustments in the procedures with respect to float periods in the form described in such subsection.

TRUST FUND TRUSTEES' REPORTS

SEC. 155. (a) The next to last sentence of section 201(c) of the Social Security Act is amended by striking out "Such report shall also include" and inserting in lieu thereof the following: "Such report shall include an actuarial opinion by the Chief Actuary of the Social Security Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable, and shall also include".

(b) Section 1817(b) of such Act is amended by inserting immediately before the last sentence the following new sentence: "Such report shall also include an actuarial opinion by the Chief Actuarial Officer of the Health Care Financing Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable.".

(c) Section 1841(b) of such Act is amended by inserting immediately before the last sentence the following new sentence: "Such report shall also include an actuarial opinion by the Chief Actuarial Officer of the Health Care Financing Administration certifying that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used are reasonable.".

(d) Notwithstanding sections 201(c)(2), 1817(b)(2), and 1841(b)(2) of the Social Security Act, the annual reports of the Boards of Trustees of the Trust Funds which are required in the calendar year 1983 under those sections may be filed at any time not later than forty-five days after the date of the enactment of this Act.

(e) The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE II—ADDITIONAL PROVISIONS RELATING TO LONG-TERM FINANCING OF THE SOCIAL SECURITY SYSTEM

INCREASE IN RETIREMENT AGE

SEC. 201. (a) Section 216 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Retirement Age

"(l)(1) The term 'retirement age' means—

"(A) with respect to an individual who attains early retirement age (as defined in paragraph (2)) before January 1, 2000, 65 years of age;

"(B) with respect to an individual who attains early retirement age after December 31, 1999, and before January 1, 2005, 65 years of age plus the number of months in the age increase factor (as determined under paragraph (3)) for the calendar year in which such individual attains early retirement age;

"(C) with respect to an individual who attains early retirement age after December 31, 2004, and before January 1, 2017, 66 years of age;

"(D) with respect to an individual who attains early retirement age after December 31, 2016, and before January 1, 2022, 66 years of age plus the number of months in the age increase factor (as determined under paragraph (3)) for the calendar year in which such individual attains early retirement age; and

"(E) with respect to an individual who attains early retirement age after December 31, 2021, 67 years of age.

"(2) The term 'early retirement age' means age 62 in the case of an old-age, wife's, or husband's insurance benefit, and age 60 in the case of a widow's or widower's insurance benefit.

"(3) The age increase factor for any individual who attains early retirement age in a calendar year within the period to which subparagraph (B) or (D) of paragraph (1) applies shall be determined as follows:

"(A) With respect to an individual who attains early retirement age in the 5-year period consisting of the calendar years 2000 through 2004, the age increase factor shall be equal to two-twelfths of the number of months in the period beginning with January 2000 and ending with December of the year in which the individual attains early retirement age.

"(B) With respect to an individual who attains early retirement age in the 5-period consisting of the calendar years 2017 through 2021, the age increase factor shall be equal to two-twelfths of the number of months in the period beginning with January 2017 and ending with December of the year in which the individual attains early retirement age."

(b)(1) Section 202(q)(9) of such Act is amended to read as follows:

"(9) The amount of the reduction for early retirement specified in paragraph (1)—

"(A) for old-age insurance benefits, wife's insurance benefits, and husband's insurance benefits, shall be the amount specified in such paragraph for the first 36 months of the reduction period (as defined in paragraph (6)) or adjusted reduction

period (as defined in paragraph (7)), and five-twelfths of 1 percent for any additional months included in such periods; and

"(B) for widow's insurance benefits and widower's insurance benefits, shall be periodically revised by the Secretary such that—

"(i) the amount of the reduction at early retirement age as defined in section 216(a) shall be 28.5 percent of the full benefit; and

"(ii) the amount of the reduction for each month in the reduction period (specified in paragraph (6)) or the adjusted reduction period (specified in paragraph (7)) shall be established by linear interpolation between 28.5 percent at the month of attainment of early retirement age and 0 percent at the month of attainment of retirement age.".

(2) Section 202(q)(1) of such Act is amended by striking out "If" and inserting in lieu thereof "Subject to paragraph (9), if".

(c) Title II of the Social Security Act is further amended—

(1) by striking out "age 65" or "age of 65", as the case may be, each place it appears in the following sections and inserting in lieu thereof in each instance "retirement age (as defined in section 216(l))":

(A) subsections (a), (b), (c), (d), (e), (f), (q), (r), and (w) of section 202;

(B) subsections (c) and (f) of section 203;

(C) subsection (f) of section 215;

(D) subsections (h) and (i) of section 216, and

(E) section 223(a); and

(2) by striking out "age sixty-five" in section 203(c) and inserting in lieu thereof "retirement age (as defined in section 216(l))"; and

(3) by striking out "age of sixty-five" in section 223(a) and inserting in lieu thereof "retirement age (as defined in section 216(l))".

(d) The Secretary shall conduct a comprehensive study and analysis of the implications of the changes made by this section in retirement age in the case of those individuals (affected by such changes) who, because they are engaged in physically demanding employment or because they are unable to extend their working careers for health reasons, may not benefit from improvements in longevity. The Secretary shall submit to the Congress no later than January 1, 1986, a full report on the study and analysis. Such report shall include any recommendations for legislative changes, including recommendations with respect to the provision of protection against the risks associated with early retirement due to health considerations, which the Secretary finds necessary or desirable as a result of the findings contained in this study.

TITLE III—MISCELLANEOUS AND TECHNICAL PROVISIONS

PART A—ELIMINATION OF GENDER-BASED DISTINCTIONS

DIVORCED HUSBANDS

SEC. 301. (a)(1) Section 202(c)(1) of the Social Security Act is amended, in the matter preceding subparagraph (A), by inserting "and every divorced husband (as defined in section 216(d))" before "of an individual" and by inserting "or such divorced husband" after "if such husband".

(2) Section 202(c)(1) of such Act is further amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of a divorced husband, is not married, and"; and

(C) by striking out the matter following subparagraph (D) (as so redesignated) and inserting in lieu thereof the following:

"shall be entitled to a husband's insurance benefit for each month, beginning with—

"(i) in the case of a husband or divorced husband (as so defined) of an individual who is entitled to an old-age insurance benefit, if such husband or divorced husband has attained age 65, the first month in which he meets the criteria specified in subparagraphs (A), (B), (C), and (D), or

"(ii) in the case of a husband or divorced husband (as so defined) of—

"(I) an individual entitled to old-age insurance benefits, if such husband or divorced husband has not attained age 65, or

"(II) an individual entitled to disability insurance benefits,

the first month throughout which he is such a husband or divorced husband and meets the criteria specified in subparagraphs (B), (C), and (D) (if in such month he meets the criterion specified in subparagraph (A)),

whichever is earlier, and ending with the month preceding the month to which any of the following occurs:

"(E) he dies,

"(F) such individual dies,

"(G) in the case of a husband, they are divorced and either (i) he has not attained age 62, or (ii) he has attained age 62 but has not been married to such individual for a period of 10 years immediately before the divorce became effective,

"(H) in the case of a divorced husband, he marries a person other than such individual,

"(I) he becomes entitled to an old-age or disability insurance benefit based on a primary insurance amount which is equal to or exceeds one-half of the primary insurance amount of such individual, or

"(J) such individual is not entitled to disability insurance benefits and is not entitled to old-age insurance benefits.".

(3) Section 202(c)(3) of such Act is amended by inserting "(or, in the case of a divorced husband, his former wife)" before "for such month".

(4) Section 202(c) of such Act is further amended by adding after paragraph (3) the following new paragraph:

"(4) In the case of any divorced husband who marries—

"(A) an individual entitled to benefits under subsection (b), (e), (g), or (h) of this section, or

"(B) an individual who has attained the age of 18 and is entitled to benefits under subsection (d), by reason of paragraph (1)(B)(ii) thereof,

such divorced husband's entitlement to benefits under this subsection, notwithstanding the provisions of paragraph (1) (but subject to subsection (s)), shall not be terminated by reason of such marriage.".

(5) Section 202(c) of such Act is further amended by adding after paragraph (4) (as added by paragraph (4) of this subsection) the following new paragraph:

"(5)(A) Notwithstanding the preceding provisions of this subsection, except as provided in subparagraph (B), the divorced husband of an individual who is not entitled to old-age or disability insurance benefits, but who has attained age 62 and is a fully insured individual (as defined in section 214), if such divorced husband—

"(i) meets the requirements of subparagraphs (A) through (D) of paragraph (1), and

"(ii) has been divorced from such insured individual for not less than 2 years,

shall be entitled to a husband's insurance benefit under this subsection for each month, in such amount, and beginning and ending with such months, as determined (under regulations of the Secretary) in the manner otherwise provided for husband's insurance benefits under this subsection, as if such insured individual had become entitled to old-age insurance benefits on the date on which the divorced husband first meets the criteria for entitlement set forth in classes (i) and (ii).

"(B) A husband's insurance benefit provided under this paragraph which has not otherwise terminated in accordance with subparagraph (E), (F), (H), or (I) of paragraph (1) shall terminate with the month preceding the first month in which the insured individual is no longer a fully insured individual.".

(6) Section 202(c)(2)(A) of such Act is amended by inserting "(or divorced husband)" after "payable to such husband".

(7) Section 202(b)(3)(A) of such Act is amended by striking out "(f)" and inserting in lieu thereof "(c), (f),".

(8) Section 202(c)(1)(D) of such Act (as redesignated by paragraph (2) of this subsection) is amended by striking out "his wife" and inserting in lieu thereof "such individual".

(9) Section 202(d)(5)(A) of such Act is amended by inserting "(c)," after "(b),".

(b)(1) Section 202(f)(1) of such Act is amended, in the matter preceding subparagraph (A), by inserting "and every surviving divorced husband (as defined in section 216(d))" before "of an individual"

and by inserting "or such surviving divorced husband" after "if such widower".

(2) Section 202(f)(1) of such Act is further amended by striking out "his deceased wife" in subparagraph (D) and in the matter following subparagraph (F) and inserting in lieu thereof "such deceased individual".

(3) Section 202(f)(3)(B)(ii)(II) of such Act (as amended by section 133(b)(1)(B) of this Act) is amended by inserting "or surviving divorced husband" after "widower".

(4) Paragraph (3)(D) of section 202(f) of such Act (as redesignated by section 133(b)(1)(A) of this Act), and paragraphs (4), (5), and (6) of such section (as redesignated by section 131(b)(3)(A) of this Act), are each amended by inserting "or surviving divorced husband" after "widower" wherever it appears.

(5) Paragraph (3)(D) of section 202(f) of such Act (as redesignated by section 133(b)(1)(A) of this Act) is further amended by striking out "wife" wherever it appears and inserting in lieu thereof "individual".

(6) Section 202(g)(3)(A) of such Act is amended by inserting "(c)," before "(f),".

(7) Section 202(h)(4)(A) of such Act is amended by inserting "(c)," before "(e),".

(c)(1) Section 216(d) of such Act is amended by redesignating paragraph (4) as paragraph (6), and by inserting after paragraph (3) the following new paragraphs:

"(4) The term 'divorced husband' means a man divorced from an individual, but only if he had been married to such individual for a period of 10 years immediately before the date the divorce became effective.

"(5) The term 'surviving divorced husband' means a man divorced from an individual who has died, but only if he had been married to the individual for a period of 10 years immediately before the divorce became effective.".

(2) The heading of section 216(d) of such Act is amended to read as follows:

"Divorced Spouses; Divorce".

(d)(1) Section 205(b) of such Act is amended by inserting "divorced husband," after "husband,", and by inserting "surviving divorced husband," after "widower,".

(2) Section 205(c)(1)(C) of such Act is amended by inserting "surviving divorced husband," after "wife,".

REMARRIAGE OF SURVIVING SPOUSE BEFORE AGE OF ELIGIBILITY

SEC. 302. Section 202(f)(1)(A) of the Social Security Act is amended by striking out "has not remarried" and inserting in lieu thereof "is not married".

ILLEGITIMATE CHILDREN

SEC. 303. (a) Section 216(h)(3) of the Social Security Act is amended by inserting "mother or" before "father" wherever it appears.

(b) Section 216(h)(3)(A)(ii) of such Act is amended by striking out all that follows "time" and inserting in lieu thereof "such applicant's application for benefits was filed;".

(c) Section 216(h)(3)(B)(ii) of such Act is amended by striking out "such period of disability began" and inserting in lieu thereof "such applicant's application for benefits was filed".

(d) Section 216(h)(3) of such Act is further amended—

(1) by striking out "his" wherever it appears and inserting in lieu thereof "his or her"; and

(2) by striking out "he" in subparagraph (B) and inserting in lieu thereof "he or she".

TRANSITIONAL INSURED STATUS

SEC. 304. (a) Section 227(a) of the Social Security Act is amended—

(1) by striking out "wife" wherever it appears and inserting in lieu thereof "spouse";

(2) by striking out "wife's" wherever it appears and inserting in lieu thereof "spouse's";

(3) by striking out "she" wherever it appears and inserting in lieu thereof "he or she";

(4) by striking out "his" and inserting in lieu thereof "the"; and

(5) by inserting "or section 202(c)" after "section 202(b)" wherever it appears.

(b) Section 227(b) and section 227(c) of such Act are amended—

(1) by striking out "widow" wherever it appears and inserting in lieu thereof "surviving spouse";

(2) by striking out "widow's" wherever it appears and inserting in lieu thereof "surviving spouse's";

(3) by striking out "her" wherever it appears and inserting in lieu thereof "the"; and

(4) by inserting "or section 202(f)" after "section 202(e)" wherever it appears.

(c) Section 216 of such Act is amended by inserting before subsection (b) the following new subsection:

"Spouse; Surviving Spouse

"(a)(1) The term 'spouse' means a wife as defined in subsection (b) or a husband as defined in subsection (f).

"(2) The term 'surviving spouse' means a widow as defined in subsection (c) or a widower as defined in subsection (g).".

EQUALIZATION OF BENEFITS UNDER SECTION 228

SEC. 305. (a) Section 228(b) of the Social Security Act is amended—

(1) by striking out "(1) Except as provided in paragraph (2), the" and inserting in lieu thereof "The"; and

(2) by striking out paragraph (2).

(b) Section 228(c)(2) of such Act is amended by striking out "(B) the larger of" and all that follows and inserting in lieu thereof "(B)

the benefit amount as determined without regard to this subsection.".

(c) Section 228(c)(3) of such Act is amended to read as follows:

"(3) In the case of a husband or wife both of whom are entitled to benefits under this section for any month, the benefit amount of each spouse, after any reduction under paragraph (1), shall be further reduced (but not below zero) by the excess (if any) of (A) the total amount of any periodic benefits under governmental pension systems for which the other spouse is eligible for such month, over (B) the benefit amount of such other spouse as determined without regard to this subsection.".

(d) Section 228 of such Act is further amended—

(1) by striking out "he" wherever it appears in subsections (a) and (c)(1) and inserting in lieu thereof "he or she"; and

(2) by striking out "his" in subsection (c)(4)(C) and inserting in lieu thereof "his or her".

(e) The Secretary shall increase the amounts specified in section 228 of the Social Security Act, as amended by this section, to take into account any general benefit increases (as referred to in section 215(i)(3) of such Act), and any increases under section 215(i) of such Act, which have occurred after June 1974 or may hereafter occur.

FATHER'S INSURANCE BENEFITS

SEC. 306. (a) Section 202(g) of the Social Security Act is amended—

(1) by striking out "widow" wherever it appears and inserting in lieu thereof "surviving spouse";

(2) by striking out "widow's" wherever it appears and inserting in lieu thereof "surviving spouse's";

(3) by striking out "wife's insurance benefits" and "he" in paragraph [illegible] and inserting in lieu thereof "a spouse's insurance benefits [illegible] such individual", respectively;

(4) by striking [illegible] "her" wherever it appears and inserting in lieu thereof "[illegible]r";

(5) by striking [illegible]e" wherever it appears and inserting in lieu thereof "[illegible]";

(6) by striking out "mother" wherever it appears and inserting in lieu thereof "parent";

(7) by inserting "or father's" after "mother's" wherever it appears;

(8) by striking out "after August 1950"; and

(9) in paragraph (3)(A) (as amended by section 301(b)(7) of this Act)—

(A) by inserting "this subsection or" before "subsection (a)"; and

(B) by striking out "(c)," and inserting in lieu thereof "(b), (c), (e),".

(b) The heading of section 202(g) of such Act is amended by inserting "and Father's" after "Mother's".

(c) Section 216(d) of such Act (as amended by section 301(c)(1) of this Act) is further amended by redesignating paragraph (6) as paragraph (8) and by inserting after paragraph (5) the following new paragraphs:

"(6) The term 'surviving divorced father' means a man divorced from an individual who has died, but only if (A) he is the father of her son or daughter, (B) he legally adopted her son or daughter while he was married to her and while such son or daughter was under the age of 18, (C) she legally adopted his son or daughter while he was married to her and while such son or daughter was under the age of 18, or (D) he was married to her at the time both of them legally adopted a child under the age of 18.

"(7) The term 'surviving divorced parent' means a surviving divorced mother as defined in paragraph (3) of this subsection or a surviving divorced father as defined in paragraph (6).".

(d) Section 202(c)(1) of such Act (as amended by section 301(a) of this Act) is further amended by inserting "(subject to subsection (s))" before "be entitled to" in the matter following subparagraph (D) and preceding subparagraph (E).

(e) Section 202(c)(1)(B) of such Act is amended by inserting after "62" the following: "or (in the case of a husband) has in his care (individually or jointly with such individual) at the time of filing such application a child entitled to child's insurance benefits on the basis of the wages and self-employment income of such individual".

(f) Section 202(c)(1) of such Act (as amended by section 301(a) of this Act and the preceding provisions of this section) is further amended by redesignating the new subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively, and by inserting after subparagraph (H) the following new subparagraph:

> *"(I) in the case of a husband who has not attained age 62, no child of such individual is entitled to a child's insurance benefit,".*

(g) Section 202(f)(1)(C) of such Act is amended by inserting "(i)" after "(C)", by inserting "or" after "223,", and by adding at the end thereof the following new clause:

> *"(ii) was entitled, on the basis of such wages and self-employment income, to father's insurance benefits for the month preceding the month in which he attained age 65, and".*

(h) Section 202(f)(5) of such Act (as redesignated by section 131(b)(3)(A) of this Act) is amended by striking out "or" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting immediately after subparagraph (A) the following new subparagraph:

> *"(B) the last month for which he was entitled to father's insurance benefits on the basis of the wages and self-employment income of such individual, or".*

(i) Section 203(f)(1)(F) of such Act is amended by striking out "section 202(b) (but only by reason of having a child in her care within the meaning of paragraph (1)(B) of that subsection)" and inserting in lieu thereof "section 202 (b) or (c) (but only by reason of having a child in his or her care within the meaning of paragraph (1)(B) of subsection (b) or (c), as may be applicable)".

EFFECT OF MARRIAGE ON CHILDHOOD DISABILITY BENEFITS AND ON OTHER DEPENDENTS' OR SURVIVORS' BENEFITS

SEC. 307. (a) Subsections (b)(3), (d)(5), (g)(3), and (h)(4) of section 202 of the Social Security Act (as amended by the preceding provi-

sions of this Act) are each amended by striking out "; except that" and all that follows and inserting in lieu thereof a period.

(b) The amendments made by subsection (a) shall apply with respect to benefits under title II of the Social Security Act for months after the month in which this Act is enacted, but only in cases in which the "last month" referred to in the provision amended is a month after the month in which this Act is enacted.

CREDIT FOR CERTAIN MILITARY SERVICE

Sec. 308. Section 217(f) of the Social Security Act is amended—

(1) by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse"; and

(2) by striking out "his" and "her" wherever they appear (except in clause (A) of paragraph (1)) and inserting in lieu thereof in each instance "his or her".

CONFORMING AMENDMENTS

Sec. 309. (a) Section 202(b)(3)(A) of the Social Security Act (as amended by section 301(a)(6) of this Act) is further amended by inserting "(g)," after "(f),".

(b) Section 202(q)(3) of such Act is amended by inserting "or surviving divorced husband" after "widower" in subparagraphs (E), (F), and (G).

(c) Section 202(q)(5) of such Act is amended—

(1) by inserting "or husband's" after "wife's" wherever it appears;

(2) by striking out "her" in subparagraph (A)(i) and inserting in lieu thereof "him or her";

(3) by striking out "her" the second place it appears in subparagraph (A)(ii) and inserting in lieu thereof "the";

(4) by striking out "she" wherever it appears and inserting in lieu thereof "he or she";

(5) by striking out "her" wherever it appears (except where paragraphs (2) and (3) of this subsection apply) and inserting in lieu thereof "his or her";

(6) by striking out "the woman" in subparagraph (B)(ii) and "a woman" in subparagraph (C) and inserting in lieu thereof "the individual" and "an individual", respectively; and

(7) in subparagraph (D)—

(A) by inserting "or widower's" after "widow's";

(B) by striking out "husband" wherever it appears and inserting in lieu thereof "spouse";

(C) by striking out "husband's" wherever it appears and inserting in lieu thereof "spouse's"; and

(D) by inserting "or father's" after "mother's".

(d)(1) Section 202(q)(6)(A) of such Act (as amended by section 134(a)(2) of this Act) is further amended by striking out "or husband's" in clause (i) and by inserting "or husband's" after "wife's" in clause (ii).

(2) Section 202(q)(7) of such Act is amended—

(A) in subparagraph (B), by inserting "or husband's" after "wife's", by striking out "she" and inserting in lieu thereof "such individual", and by inserting "his or" before "her", and

(B) in subparagraph (D), by inserting "or widower's" after "widow's".

(e)(1) Section 202(s)(1) of such Act is amended by inserting "(c)(1)," after "(b)(1),".

(2) Section 202(s)(2) of such Act (as amended by section 131(c)(1) of this Act) is further amended by inserting "(c)(4)," after "(b)(3),".

(3) Section 202(s)(3) of such Act (as amended by section 131(c)(2) of this Act) is further amended by striking out "So much" and all that follows down through "the last sentence" and inserting in lieu thereof "The last sentence".

(f) The third sentence of section 203(b)(1) of such Act (as amended by section 132(b) of this Act) is further amended by inserting "or father's" after "mother's".

(g) Section 203(c) of such Act is amended to read as follows:

"Deductions on Account of Noncovered Work Outside the United States or Failure to Have Child in Care

"(c) Deductions, in such amounts and at such time or times as the Secretary shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefits or benefit under section 202 for any month—

"(1) in which such individual is under the age of seventy and for more than forty-five hours of which such individual engaged in noncovered remunerative activity outside the United States;

"(2) in which such individual, if a wife or husband under age sixty-five entitled to a wife's or husband's insurance benefit, did not have in his or her care (individually or jointly with his or her spouse) a child of such spouse entitled to a child's insurance benefit and such wife's or husband's insurance benefit for such month was not reduced under the provisions of section 202(q);

"(3) in which such individual, if a widow or widower entitled to a mother's or father's insurance benefit, did not have in his or her care a child of his or her deceased spouse entitled to a child's insurance benefit; or

"(4) in which such an individual, if a surviving divorced mother or father entitled to a mother's or father's insurance benefit, did not have in his or her care a child of his or her deceased former spouse who (A) is his or her son, daughter, or legally adopted child and (B) is entitled to a child's insurance benefit on the basis of the wages and self-employment income of such deceased former spouse.

For purposes of paragraphs (2), (3), and (4) of this subsection, a child shall not be considered to be entitled to a child's insurance benefit for any month in which paragraph (1) of section 202(s) applies or an event specified in section 222(b) occurs with respect to such child. Subject to paragraph (3) of such section 202(s), no deduction shall be made under this subsection from any child's insurance benefit for the month in which the child entitled to such benefit attained the age of eighteen or any subsequent month; nor shall any deduction be made under this subsection from any widow's insurance benefit for *any month in which the widow or surviving divorced wife is entitled and has not attained age 65 (but only if she became so entitled prior to attaining age 60), or from any widower's insurance benefit for any month in which the widower or surviving divorced husband is entitled and has not attained age 65 (but only if he became so entitled prior to attaining age 60).".*

(h) Section 203(d) of such Act is amended by inserting "divorced husband," after "husband," in paragraph (1)(A) (as amended by section 132(b)(2) of this Act) and by inserting "or father's" after "mother's" each place it appears in paragraph (2).

(i)(1) Section 205(b) of such Act (as amended by section 301(d)(1) of this Act) is further amended by inserting "surviving divorced father," after "surviving divorced mother,".

(2) Section 205(c)(1)(C) of such Act (as amended by section 301(d)(2) of this Act) is further amended by inserting "surviving divorced father," after "surviving divorced mother,".

(j) Section 216(f)(3)(A) of such Act is amended by inserting "(c)," before "(f)",

(k) Section 216(g)(6)(A) of such Act is amended by inserting "(c)," before "(f)".

(l) Section 222(b)(1) of such Act is amended by striking out "or surviving divorced wife" and inserting in lieu thereof ", surviving divorced wife, or surviving divorced husband".

(m) Section 222(b)(2) of such Act is amended by inserting "or father's" after "mother's" wherever it appears.

(n) Section 222(b)(3) of such Act is amended by inserting "divorced husband," after "husband,".

(o) Section 223(d)(2) of such Act is amended by striking out "or widower" in subparagraphs (A) and (B) and inserting in lieu thereof "widower, or surviving divorced husband".

(p) Section 225(a) of such Act is amended by inserting "or surviving divorced husband" after "widower".

(q)(1) Section 226(e)(3) of such Act is amended to read as follows:

"(3) For purposes of determining entitlement to hospital insurance benefits under subsection (b), any disabled widow aged 50 or older who is entitled to mother's insurance benefits (and who would have been entitled to widow's insurance benefits by reason of disability if she had filed for such widow's benefits), and any disabled widower aged 50 or older who is entitled to father's insurance benefits (and who would have been entitled to widower's insurance benefits by reason of disability if he had filed for such widower's benefits), shall, upon application for such hospital insurance benefits be deemed to have filed for such widow's or widower's insurance benefits.".

(2) For purposes of determining entitlement to hospital insurance benefits under section 226(e)(3) of such Act, as amended by paragraph (1), an individual becoming entitled to such hospital insurance benefits as a result of the amendment made by such paragraph shall, upon furnishing proof of his or her disability within twelve months after the month in which this Act is enacted, under such procedures as the Secretary of Health and Human Services may prescribe, be deemed to have been entitled to the widow's or widower's benefits referred to in such section 226(e)(3), as so amended, as of the time such individual would have been entitled to such widow's or

widower's benefits if he or she had filed a timely application therefor.

EFFECTIVE DATE OF PART A

SEC. 310. (a) Except as otherwise specifically provided in this title, the amendments made by this part apply only with respect to monthly benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted.

(b) Nothing in any amendment made by this part shall be construed as affecting the validity of any benefit which was paid, prior to the effective date of such amendment, as a result of a judicial determination.

PART B—COVERAGE

COVERAGE OF EMPLOYEES OF FOREIGN AFFILIATES OF AMERICAN EMPLOYERS

SEC. 321. (a)(1) So much of subsection (l) of section 3121 of the Internal Revenue Code of 1954 (relating to agreements entered into by domestic corporations with respect to foreign subsidiaries) as precedes the second sentence of paragraph (1) thereof is amended to read as follows:

"(l) AGREEMENTS ENTERED INTO BY AMERICAN EMPLOYERS WITH RESPECT TO FOREIGN AFFILIATES.—

"(1) AGREEMENT WITH RESPECT TO CERTAIN EMPLOYEES OF FOREIGN AFFILIATE.—The Secretary shall, at the American employer's request, enter into an agreement (in such manner and form as may be prescribed by the Secretary) with any American employer (as defined in subsection (h)) who desires to have the insurance system established by title II of the Social Security Act extended to service performed outside the United States in the employ of any 1 or more of such employer's foreign affiliates (as defined in paragraph (8)) by all employees who are citizens or residents of the United States, except that the agreement shall not apply to any service performed by, or remuneration paid to, an employee if such service or remuneration would be excluded from the term 'employment' or 'wages', as defined in this section, had the service been performed in the United States."

(2) Paragraph (8) of section 3121(l) of such Code (defining foreign subsidiary) is amended to read as follows:

"(8) FOREIGN AFFILIATE DEFINED.—For purposes of this subsection and section 210(a) of the Social Security Act—

"(A) IN GENERAL.—A foreign affiliate of an American employer is any foreign entity in which such American employer has not less than a 10-percent interest.

"(B) DETERMINATION OF 10-PERCENT INTEREST.—For purposes of subparagraph (A), an American employer has a 10-percent interest in any entity if such employer has such an interest directly (or through one or more entities)—

"(i) in the case of a corporation, in the voting stock thereof, and

"(ii) in the case of any other entity, in the profits thereof."

(b) The clause (B) of section 210(a) of the Social Security Act (defining employment) which precedes paragraph (1) thereof (as amended by section 323(a)(2) of this Act) is further amended to read as follows: "(B) outside the United States by a citizen or resident of the United States as an employee (i) of an American employer (as defined in subsection (e) of this section), or (ii) of a foreign affiliate (as defined in section 3121(l)(8) of the Internal Revenue Code of 1954) of an American employer during any period for which there is in effect an agreement, entered into pursuant to section 3121(l) of such Code, with respect to such affiliate;".

(c) Subsection (a) of section 406 of the Internal Revenue Code of 1954 (relating to treatment of certain employees of foreign subsidiaries for pension, etc., purposes) is amended to read as follows:

"(a) TREATMENT AS EMPLOYEES OF AMERICAN EMPLOYER.—For purposes of applying this part with respect to a pension, profit-sharing, or stock bonus plan described in section 401(a), an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a), of an American employer (as defined in section 3121(h)), an individual who is a citizen or resident of the United States and who is an employee of a foreign affiliate (as defined in section 3121(l)(8)) of such American employer shall be treated as an employee of such American employer, if—

"(1) such American employer has entered into an agreement under section 3121(l) which applies to the foreign affiliate of which such individual is an employee;

"(2) the plan of such American employer expressly provides for contributions or benefits for individuals who are citizens or residents of the United States and who are employees of its foreign affiliates to which an agreement entered into by such American employer under section 3121(l) applies; and

"(3) contributions under a funded plan of deferred compensation (whether or not a plan described in section 401(a), 403(a), or 405(a)) are not provided by any other person with respect to the remuneration paid to such individual by the foreign affiliate."

(d) Paragraph (1) of section 407(a) of such Code (relating to certain employees of domestic subsidiaries engaged in business outside the United States) is amended—

(1) by striking out "citizen of the United States" and inserting in lieu thereof "citizen or resident of the United States", and

(2) by striking out "citizens of the United States" and inserting in lieu thereof "citizens or residents of the United States".

(e)(1) Those provisions of subsection (l) of section 3121 of such Code which are not amended by subsection (a) of this section are amended in accordance with the following table:

Strike out (wherever it appears in the text or heading):	*And insert:*
domestic corporation	*American employer*
domestic corporations	*American employers*
subsidiary	*affiliate*
subsidiaries	*affiliates*
foreign corporation	*foreign entity*

Strike out (wherever it appears in the text or heading):	*And insert:*
foreign corporations	*foreign entities*
citizens	*citizens or residents*
the word "a" where it appears before "domestic".	*an*

(2)(A) Section 406 of such Code (other than subsection (a) thereof) is amended in accordance with the following table:

Strike out (wherever appearing in the text):	*And insert:*
domestic corporation	*American employer*
subsidiary	*affiliate*
the word "a" where it appears before "domestic".	*an*

(B) Paragraph (3) of subsection (c) of such section 406 (as in effect before the amendment made by subparagraph (A)) is amended by striking out "another corporation controlled by such domestic corporation" and inserting in lieu thereof "another entity in which such American employer has not less than a 10-percent interest (within the meaning of section 3121(l)(8)(B))".

(C)(i) So much of subsection (d) of such section 406 as precedes paragraph (1) thereof is amended by striking out "another corporation" and inserting in lieu thereof "another taxpayer".

(ii) Paragraph (1) of subsection (d) of such section 406 is amended by striking out "any other corporation" and inserting in lieu thereof "any other taxpayer".

(D)(i) The heading of such section 406 is amended to read as follows:

"SEC. 406. EMPLOYEES OF FOREIGN AFFILIATES COVERED BY SECTION 3121(l) AGREEMENTS.".

(ii) The table of sections for subpart A of part I of subchapter D of chapter 1 of such Code is amended by striking out the item relating to section 406 and inserting in lieu thereof the following:

"Sec. 406. Employees of foreign affiliates covered by section 3121(l) agreements."

(3) Clause (A) of the second sentence of section 1402(b) of such Code (defining self-employment income) is amended by striking out "employees of foreign subsidiaries of domestic corporations" and inserting in lieu thereof "employees of foreign affiliates of American employers".

(4)(A) Subparagraph (C) of section 6413(c)(2) of such Code (relating to special refunds of FICA taxes in the case of employees of certain foreign corporations) is amended—

(i) by striking out "FOREIGN CORPORATIONS" in the heading and inserting in lieu thereof "FOREIGN AFFILIATES", and

(ii) by striking out "domestic corporation" in the text and inserting in lieu thereof "American employer".

(B) The heading of paragraph (2) of section 6413(c) of such Code is amended by striking out "FOREIGN CORPORATIONS" and inserting in lieu thereof "FOREIGN AFFILIATES".

(f)(1)(A) The amendments made by this section (other than subsection (d)) shall apply to agreements entered into after the date of the enactment of this Act.

(B) At the election of any American employer, the amendments made by this section (other than subsection (d)) shall also apply to any agreement entered into on or before the date of the enactment of this Act. Any such election shall be made at such time and in such manner as the Secretary may by regulations prescribe.

(2)(A) The amendments made by subsection (d) shall apply to plans established after the date of the enactment of this Act.

(B) At the election of any domestic parent corporation the amendments made by subsection (d) shall also apply to any plan established on or before the date of the enactment of this Act. Any such election shall be made at such time and in such manner as the Secretary may by regulations prescribe.

EXTENSION OF COVERAGE BY INTERNATIONAL SOCIAL SECURITY AGREEMENT

SEC. 322. (a)(1) Section 210(a) of the Social Security Act is amended, in the matter preceding paragraph (1)—

(A) by striking out "either" before "(A)", and

(B) by inserting before "; except" the following: ", or (C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233".

(2) Section 3121(b) of the Internal Revenue Code of 1954 is amended, in the matter preceding paragraph (1)—

(A) by striking out "either" before "(A)", and

(B) by inserting before "; except" the following: ", or (C) if it is service, regardless of where or by whom performed, which is designated as employment or recognized as equivalent to employment under an agreement entered into under section 233 of the Social Security Act".

(b)(1) Section 211(b) of the Social Security Act is amended by inserting after "non-resident alien individual" the following: ", except as provided by an agreement under section 233".

(2) The first sentence of section 1402(b) of the Internal Revenue Code of 1954 is amended by inserting after "nonresident alien individual" the following: ", except as provided by an agreement under section 233 of the Social Security Act".

(c) The amendments made by this section shall be effective for taxable years beginning on or after the date of the enactment of this Act.

TREATMENT OF CERTAIN SERVICE PERFORMED OUTSIDE THE UNITED STATES

SEC. 323. (a)(1) Subsection (b) of section 3121 of the Internal Revenue Code of 1954 (defining employment) is amended by striking out "a citizen of the United States" in the matter preceding paragraph (1) thereof and inserting in lieu thereof "a citizen or resident of the United States".

(2) Subsection (a) of section 210 of the Social Security Act is amended by striking out "a citizen of the United States" in the matter preceding paragraph (1) thereof and inserting in lieu thereof "a citizen or resident of the United States".

(b)(1) Paragraph (11) of section 1402(a) of the Internal Revenue Code of 1954 (defining net earnings from self-employment) is amended by striking out "in the case of an individual described in section 911(d)(1)(B),".

(2)(A) Paragraph (10) of section 211(a) of the Social Security Act is amended to read as follows:

> *"(10) the exclusion from gross income provided by section 911(a)(1) of the Internal Revenue Code of 1954 shall not apply; and".*

(B) Effective with respect to taxable years beginning after December 31, 1981, and before January 1, 1984, paragraph (10) of section 211(a) of such Act is amended to read as follows:

> *"(10) in the case of an individual described in section 911(d)(1)(B) of the Internal Revenue Code of 1954, the exclusion from gross income provided by section 911(a)(1) of such Code shall not apply; and".*

(c)(1) The amendments made by subsection (a) shall apply to remuneration paid after December 31, 1983.

(2) Except as provided in subsection (b)(2)(B), the amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1983.

AMOUNTS RECEIVED UNDER CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS TREATED AS WAGES FOR FICA TAXES

SEC. 324. (a)(1) Section 3121 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(v) TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS.—

"(1) CERTAIN EMPLOYER CONTRIBUTIONS TREATED AS WAGES.—Nothing in any paragraph of subsection (a) (other than paragraph (1)) shall exclude from the term 'wages'—

"(A) any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(a)(8), or

"(B) any amount treated as an employer contribution under section 414(h)(2).

"(2) TREATMENT OF CERTAIN NONQUALIFIED DEFERRED COMPENSATION PLANS.—

"(A) IN GENERAL.—Any amount deferred under a nonqualified deferred compensation plan shall be taken into account for purposes of this chapter as of the later of—

"(i) when the services are performed, or

"(ii) when there is no substantial risk of forfeiture of the rights to such amount.

"(B) TAXED ONLY ONCE.—Any amount taken into account as wages by reason of subparagraph (A) (and the income attributable thereto) shall not thereafter be treated as wages for purposes of this chapter.

"(C) NONQUALIFIED DEFERRED COMPENSATION PLAN.—For purposes of this paragraph, the term 'nonqualified deferred

compensation plan' means any plan or other arrangement for deferral of compensation other than a plan described in subsection (a)(5).

"(3) EXEMPT GOVERNMENTAL DEFERRED COMPENSATION PLAN.—For purposes of subsection (a)(5), the term 'exempt governmental deferred compensation plan' means any plan providing for deferral of compensation established and maintained for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing. Such term shall not include—

"(A) any plan to which section 83, 402(b), 403(c), 457(a), or 457(e)(1) applies, and

"(B) any annuity contract described in section 403(b)."

(2) Paragraph (5) of section 3121(a) of such Code (defining wages) is amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a comma, and

(C) by adding at the end thereof the following new subparagraphs:

"(E) under or to an annuity contract described in section 403(b), other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement (whether evidenced by a written instrument or otherwise),

"(F) under or to an exempt governmental deferred compensation plan (as defined in subsection (v)(3)), or

"(G) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this paragraph to take into account some portion or all of the increase in the cost of living (as determined by the Secretary of Labor) since retirement but only if such supplemental payments are under a plan which is treated as a welfare plan under section 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974;".

(3) Subsection (a) of section 3121 of such Code (defining wages) is amended—

(A) in paragraph (2), by striking out subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively,

(B) by striking out paragraphs (3) and (9),

(C) in paragraph (13)(A)—

(i) by inserting "or" after "death,", and

(ii) by striking out "or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer,", and

(D) by striking out "subparagraph (B)" in the last sentence thereof and inserting in lieu thereof "subparagraph (A)".

(b)(1) Section 3306 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(r) TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS.—

"(1) CERTAIN EMPLOYER CONTRIBUTIONS TREATED AS WAGES.—Nothing in any paragraph of subsection (b) (other than paragraph (1)) shall exclude from the term 'wages'—

"(A) any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not included in gross income by reason of section 402(a)(8), or

"(B) any amount treated as an employer contribution under section 414(h)(2).

"(2) TREATMENT OF CERTAIN NONQUALIFIED DEFERRED COMPENSATION PLANS.—

"(A) IN GENERAL.—Any amount deferred under a nonqualified deferred compensation plan shall be taken into account for purposes of this chapter as of the later of—

"(i) when the services are performed, or

"(ii) when there is no substantial risk of forefeiture of the rights to such amount.

"(B) TAXED ONLY ONCE.—Any amount taken into account as wages by reason of subparagraph (A) (and the income attributable thereto) shall not thereafter be treated as wages for purposes of this chapter.

"(C) NONQUALIFIED DEFERRED COMPENSATION PLAN.—For purposes of this paragraph, the term 'nonqualified deferred compensation plan' means any plan or other arrangement for deferral of compensation other than a plan described in subsection (b)(5)."

(2) Paragraph (5) of section 3306(b) of such Code (defining wages) is amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof a comma, and

(C) by adding at the end thereof the following new subparagraphs:

"(E) under or to an annuity contract described in section 403(b), other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement (whether evidenced by a written instrument or otherwise),

"(F) under or to an exempt governmental deferred compensation plan (as defined in section 3121(v)(3)), or

"(G) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this paragraph to take into account some portion or all of the increase in the cost of living (as determined by the Secretary of Labor) since retirement but only if such supplemental payments are under a plan which is treated as a welfare plan under section 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974;".

(3) Subsection (b) of section 3306 of such Code (defining wages) is amended—

(A) in paragraph (2), by striking out subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively,

(B) by striking out paragraphs (3) and (8), and (C) in paragraph (10)(A)—

(i) by inserting "or" after "death,", and

(ii) by striking out "or (iii) retirement after attaining an age specified in the plan referred to in subparagraph (B) or in a pension plan of the employer,".

(4)(A Subparagraph (A) of section 3306(b)(2) of such Code, as redesignated by paragraph (3)(A), is amended to read as follows:

> *"(A) sickness or accident disability (but, in the case of payments made to an employee or any of his dependents, this subparagraph shall exclude from the term 'wages' only payments which are received under a workman's compensation law), or".*

(B) Subsection (b) of section 3306 of such Code (defining wages) is amended by adding at the end thereof the following new flush sentence:

"Except as otherwise provided in regulations prescribed by the Secretary, any third party which makes a payment included in wages solely by reason of the parenthetical matter contained in subparagraph (A) of paragraph (2) shall be treated for purposes of this chapter and chapter 22 as the employer with respect to such wages".

(C) Rules similar to the rules of subsections (d) and (e) of section 3 of the Act entitled "An Act to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits under the Social Security Act" (Public Law 97–123), approved December 29, 1981, shall apply in the administration of section 3306(b)(2)(A) of such Code (as amended by subparagraph (A)).

(c)(1) Section 209 of the Social Security Act is amended by adding at the end thereof (as amended by this Act) the following new paragraphs:

"Nothing in any of the foregoing provisions of this section (other than subsection (a)) shall exclude from the term 'wages'

> *"(1) any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k) of the Internal Revenue Code of 1954) to the extent not included in gross income by reason of section 402(a)(8) of such Code, or*
>
> *"(2) any amount which is treated as an employer contribution under section 414(h)(2) of such Code.*

"Any amount deferred under a nonqualified deferred compensation plan (within the meaning of section 3121(v)(2)(C) of the Internal Revenue Code of 1954) shall be taken into account for purposes of this title as of the later of when the services are performed, or when there is no substantial risk of forfeiture of the rights to such amount. Any amount taken into acount as wages by reason of the preceding sentence (and the income attributable thereto) shall not thereafter be treated as wages for purposes of this title."

(2) Subsection (e) of section 209 of such Act is amended by adding before the semicolon at the end thereof the following: ", or (5) under or to an annuity contract described in section 403(b) of the Internal Revenue Code of 1954, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement (whether evidence by a written instrument or otherwise), or (6) under or to an exempt governmental deferred compensation plan (as defined in section 3121(v)(3) of such Code), or (7) to supplement pension benefits under a plan or trust described in any of the foregoing provisions of this subsection to take into account some portion or all of the increase in the cost of living (as determined by the Secretary of Labor) since retirement but only if such supplemental payments

are under a plan which is treated as a welfare plan under section 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974;".

(3) Section 209 of such Act is amended—

(A) in subsection (b), by striking out paragraph (1) and redesigning paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively,

(B) by striking out subsections (c) and (i), and

(C) in subsection (m)(1)—

(i) by inserting "or" after "death,", and

(ii) by striking out "or (C) retirement after attaining an age specified in the plan referred to in paragraph (2) or in a pension plan of the employer,".

(4) Section 203(f)(5)(C) of the Social Security Act is amended by adding at the end thereof the following new sentence: "The term 'wages' does not include—

"(i) the amount of any payment made to, or on behalf of, an employee or any of his dependents (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement, or

"(ii) any payment or series of payments by an employer to an employee or any of his dependents upon or after the termination of the employee's employment relationship because of retirement after attaining an age specified in a plan referred to in section 209(m)(2) or in a pension plan of the employer."

(d)(1) Except as otherwise provided in this subsection, the amendments made by this section shall apply to remuneration paid after December 31, 1983.

(2) Except as otherwise provided in this subsection, the amendments made by subsection (b) shall apply to remuneration paid after December 31, 1984.

(3) The amendments made by this section shall not apply to employer contributions made during 1984 and attributable to services performed during 1983 under a qualified cash or deferred arrangement (as defined in section 401(k) of the Internal Revenue Code of 1954) if, under the terms of such arrangement as in effect on March 24, 1983—

(A) the employee makes an election with respect to such contribution before January 1, 1984, and

(B) the employer identifies the amount of such contribution before January 1, 1984.

In the case of the amendments made by subsection (b), the preceding sentence shall be applied by substituting "1985" for "1984" each place it appears and by substituting "during 1984" for "during 1983".

(4) In the case of an ageeement in existence on March 24, 1983, between a nonqualified deferred compensation plan (as defined in section 3121(v)(2)(C) of the Internal Revenue Code of 1954, as added by this section) and an individual—

(A) the amendments made by this section (other than subsection (b)) shall apply with respect to services performed by such individual after December 31, 1983, and

(B) the amendments made by subsection (b) shall apply with respect to services performed by such individual after December 31, 1984.

The preceding sentence shall not apply in the case of a plan to which section 457(a) of such Code applies.

EFFECT OF CHANGES IN NAMES OF STATE AND LOCAL EMPLOYEE GROUPS IN UTAH

SEC. 326. (a) Section 218(o) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Coverage provided for in this subsection shall not be affected by a subsequent change in the name of a group.".

(b) The amendment made by subsection (a) shall apply with respect to name changes made before, on, or after the date of the enactment of this section.

EFFECTIVE DATES OF INTERNATIONAL SOCIAL SECURITY AGREEMENTS

SEC. 327. (a) Section 233(e)(2) of the Social Security Act is amended by striking out "during which each House of the Congress has been in session on each of 90 days" and inserting in lieu thereof "during which at least one House of the Congress has been in session on each of 60 days".

(b) The amendment made by subsection (a) shall be effective on the date of the enactment of this Act.

CODIFICATION OF ROWAN DECISION WITH RESPECT TO MEALS AND LODGING

SEC. 328. (a)(1) Subsection (a) section 3121 of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "or" at the end of paragraph (17), by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; or", and by inserting after paragraph (18) the following new paragraph:

> *"(19) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119.".*

(2) Section 209 of the Social Security Act is amended by striking out "or" at the end of subsection (p), by striking out the period at the end of subsection (q) and inserting in lieu thereof "; or", and by inserting after subsection (q) the following new subsection:

"(r) The value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119 of the Internal Revenue Code of 1954.".

(b)(1) Subsection (a) of section 3121 of such Code is amended by inserting after paragraph (19) (as added by subsection (a) of this section) the following new sentence: "Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from 'wages' as used in such chapter shall be construed to require a similar exclusion from 'wages' in the regulations prescribed for purposes of this chapter.".

(2) Section 209 of the Social Security Act is amended by inserting immediately after subsection (r) (as added by subsection (a) of this section) the following new sentence: "Nothing in the regulations prescribed for purposes of chapter 24 of the Internal Revenue Code of 1954 (relating to income tax withholding) which provides an exclusion from 'wages' as used in such chapter shall be construed to require a similar exclusion from 'wages' in the regulations prescribed for purposes of this title.".

(c) Subsection (b) of section 3306 of the Internal Revenue Code of 1954 (defining wages) is amended—

(1) by striking out "or" at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof ", or",

(3) by adding immediately after paragraph (13) the following new paragraph:

"(14) the value of any meals or lodging furnished by or on behalf of the employer if at the time of such furnishing it is reasonable to believe that the employee will be able to exclude such items from income under section 119.", and

(4) by adding at the end thereof the following new flush sentence:

"Nothing in the regulations prescribed for purposes of chapter 24 (relating to income tax withholding) which provides an exclusion from 'wages' as used in such chapter shall be construed to require a similar exclusion from 'wages' in the regulations prescribed for purposes of this chapter.".

(d)(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall apply to remuneration paid after December 31, 1983.

(2) The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984.

TREATMENT OF CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSIONS

SEC. 329. (a) Subparagraph (D) of section 3121(a)(5) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "section 219" and inserting in lieu thereof "section 219(b)(2)".

(b) Subsection (e) of section 209 of the Social Security Act, as amended by this Act, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: ", or (8) under a simplified employee pension (as defined in section 408(k) of the Internal Revenue Code of 1954) if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under section 219(b)(2) of such Code for such payment;".

(c) Subparagraph (D) of section 3306(b)(5) of the Internal Revenue Code of 1954 is amended by striking out "section 219" and inserting in lieu thereof "section 219(b)(2)".

(d)(1) Except as provided in paragraph (2), the amendments made by this section shall apply to remuneration paid after December 31, 1983.

(2) The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984.

PART C—OTHER AMENDMENTS

TECHNICAL AND CONFORMING AMENDMENTS TO MAXIMUM FAMILY BENEFIT PROVISIONS

SEC. 331. (a)(1) Section 203(a)(3)(A) of the Social Security Act is amended by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) an amount (I) initially equal to the product of 1.75 and the primary insurance amount that would be computed under section 215(a)(1), for January of the year determined for purposes of this clause under the following two sentences, with respect to average indexed monthly earnings equal to one-twelfth of the contribution and benefit base determined for that year under section 230, and (II) thereafter increased in accordance with the provisions of section 215(i)(2)(A)(ii).

The year established for purposes of clause (ii) shall be 1983 or, if it occurs later with respect to any individual, the year in which occurred the month that the application of the reduction provisions contained in this subparagraph began with respect to benefits payable on the basis of the wages and self-employment income of the insured individual. If for any month subsequent to the first month for which clause (ii) applies (with respect to benefits payable on the basis of the wages and self-employment income of the insured individual) the reduction under this subparagraph ceases to apply, then the year determined under the preceding sentence shall be redetermined (for purposes of any subsequent application of this subparagraph with respect to benefits payable on the basis of such wages and self-employment income) as though this subparagraph had not been previously applicable.".

(2) Section 203(a)(7) of such Act is amended by striking out everything that follows "shall be reduced to an amount equal to" and inserting in lieu thereof "the amount determined in accordance with the provisions of paragraph (3)(A)(ii) of this subsection, except that for this purpose the references to subparagraph (A) in the last two sentences of paragraph (3)(A) shall be deemed to be references to paragraph (7).".

(b) Clause (i) in the last sentence of section 203(b)(1) of such Act (as amended by section 132(b) of this Act) is further amended by striking out "penultimate sentence" and inserting in lieu thereof "first sentence of paragraph (4)".

(c) The amendments made by subsection (a) shall be effective with respect to payments made for months after December 1983.

RELAXATION OF INSURED STATUS REQUIREMENTS FOR CERTAIN WORKERS PREVIOUSLY ENTITLED TO A PERIOD OF DISABILITY

SEC. 332. (a) Section 216(i)(3) of the Social Security Act is amended—

(1) by striking out the semicolon at the end of clause (ii) of subparagraph (B) and inserting in lieu thereof ", or"; and

(2) by inserting after clause (ii) of such subparagraph the following new clause:

"(iii) in the case of an individual (not otherwise insured under clause (i)) who, by reason of clause (ii), had a prior period *of disability that began during a period before the quarter in which he or she attained age 31, not less than one-half of the quarters beginning after such individual attained age 21 and ending with such quarter are quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter are quarters of coverage;".*

(b) Section 223(c)(1)(B) of such Act is amended—

(1) by striking out the semicolon at the end of clause (ii) and inserting in lieu thereof ", or"; and

(2) by inserting after clause (ii) the following new clause:

"(iii) in the case of an individual (not otherwise insured under clause (i)) who, by reason of section 216(i)(3)(B)(ii), had a prior period of disability that began during a period before the quarter in which he or she attained age 31, not less than one-half of the quarters beginning after such individual attained age 21 and ending with the quarter in which such month occurs are quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter are quarters of coverage;".

(c) The amendments made by this section shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act, and for disability determinations under section 216(i) of such Act, filed after the date of the enactment of this Act, except that no monthly benefits under title II of the Social Security Act shall be payable or increased by reason of the amendments made by this section for months before the month following the month of enactment of this Act.

PROTECTION OF BENEFITS OF ILLEGITIMATE CHILDREN OF DISABLED BENEFICIARIES

SEC. 333. (a) The last sentence of section 216(h)(3) of the Social Security Act is amended by striking out "subparagraph (A)(i)" and inserting in lieu thereof "subparagraphs (A)(i) and (B)(i)".

(b) The amendment made by subsection (a) shall be effective on the date of the enactment of this Act.

ONE-MONTH RETROACTIVITY OF WIDOW'S AND WIDOWER'S INSURANCE BENEFITS

SEC. 334. (a) Section 202(j)(4)(B) of the Social Security Act is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by adding after clause (ii) the following new clause:

"(iii) Subparagraph (A) does not apply to a benefit under subsection (e) or (f) for the month immediately preceding the month of application, if the insured individual died in that preceding month.".

(b) The amendments made by subsection (a) shall apply with respect to survivors whose applications for monthly benefits are filed after the second month following the month in which this Act is enacted.

NONASSIGNABILITY OF BENEFITS

SEC. 335. (a) Section 207 of the Social Security Act is amended—

(1) by inserting "(a)" before "The right"; and

(2) by adding at the end thereof the following new subsection:

"(b) No other provision of law, enacted before, on, or after the date of the enactment of this section, may be construed to limit, supersede, or otherwise modify the provisions of this section except to the extent that it does so by express reference to this section.".

(b)(1) Section 459(a) of such Act is amended by inserting "(including section 207)" after "any other provision of law."

(2)(A) Section 86(a) of the Internal Revenue Code of 1954 (as added by section 121(a) of this Act) is amended by inserting "(notwithstanding section 207 of the Social Security Act)" before "includes".

(B) Section 871(a)(3)(A) of such Code (as added by section 121(c)(1) of this Act) is amended by inserting "(notwithstanding section 207 of the Social Security Act)" after "income".

(c) The amendments made by subsection (a) shall apply only with respect to benefits payable or rights existing under the Social Security Act on or after the date of the enactment of this Act.

USE OF DEATH CERTIFICATES TO PREVENT ERRONEOUS BENEFIT PAYMENTS TO DECEASED INDIVIDUALS

SEC. 336. Section 205 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"USE OF DEATH CERTIFICATES TO CORRECT PROGRAM INFORMATION

"(r)(1) The Secretary shall undertake to establish a program under which—

"(A) States (or political subdivisions thereof) voluntarily contract with the Secretary to furnish the Secretary periodically with information (in a form established by the Secretary in consultation with the States) concerning individuals with respect to whom death certificates (or equivalent documents maintained by the States or subdivisions) have been officially filed with them;

"(B) There will be (1) a comparison of such information on such individuals with information on such individuals in the records being used in the administration of this Act, (2) validation of the results of such comparisons, and (3) corrections in such records to accurately reflect the status of such individual.

"(2) Each State (or political subdivision thereof) which furnishes the Secretary with information on records of deaths in the State or subdivision under this subsection may be paid by the Secretary from amounts available for administration of this Act the reasonable costs (established by the Secretary in consultation with the States) for transcribing and transmitting such information to the Secretary.

"(3) In the case of individuals with respect to whom federally funded benefits are provided by (or through) a Federal or State agency other than under this Act, the Secretary shall to the extent feasible provide such information through a cooperative arrange-

ment with such agency, for ensuring proper payment of those benefits with respect to such individuals if—

"(A) under such arrangement the agency provides reimbursement to the Secretary for the reasonable cost of carrying out such arrangement, and

"(B) such arrangement does not conflict with the duties of the Secretary under paragraph (1).

"(4) The Secretary may enter into similar agreements with States to provide information for their use in programs wholly funded by the States if the requirements of (r)(3)(A) and (r)(3)(B) are met.

"(5) The Secretary may use or provide for the use of such records as may be corrected under this section, subject to such safeguards as the Secretary determines are necessary or appropriate to protect the information from unauthorized use or disclosure, for statistical and research activities conducted by Federal and State agencies;

"(6) Information furnished to the Secretary under this subsection may not be used for any purpose other than the purpose described in this subsection and is exempt from disclosure under section 552 of title 5, United States Code, and from his requirements of section 552a of such title.

"(7) The Secretary shall include information on the status of the program established under this section and impediments to the effective implementation of the program in the 1984 report required under section 704 of the Act.".

PUBLIC PENSION OFFSET

SEC. 337. (a) Subsections (b)(4)(A), (c)(2)(A), (f)(2)(A), and (g)(4)(A) of section 202 of the Social Security Act, and paragraph (7)(A) of section 202(e) of such Act (as redesignated by section 131(a)(3)(A) of this Act), are each amended—

(1) by striking out "by an amount equal to the amount of any monthly periodic benefit" and inserting in lieu thereof "by an amount equal to two-thirds of the amount of any monthly periodic benefit"; and

(2) by adding at the end thereof the following new sentence: "The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.".

(b) The amendments made by subsection (a) of this section shall apply only with respect to monthly insurance benefits payable under title II of the Social Security Act to individuals who initially become eligible (as defined in section 334 of Public Law 95-216) for monthly periodic benefits (within the meaning of the provisions amended by subsection (a)) for months after June 1983.

STUDY CONCERNING THE ESTABLISHMENT OF THE SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY

SEC. 338. (a) There is hereby established, under the authority of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a joint study panel to be known as the Joint Study Panel on the Social Security Adminis-

tration (hereafter in this section referred to as the "Panel"). The duties of the Panel shall be to conduct the study provided for in subsection (c).

(b)(1) The Panel shall be composed of 3 members, appointed jointly by the chairmen of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and such chairmen shall jointly select one member of the Panel to serve as chairman of the Panel. Members of the Panel shall be chosen, on the basis of their integrity, impartiality, and good judgment, from individuals who, as a result of their training, experience, and attainments, are widely recognized by professionals in the fields of government administration, social insurance, and labor relations as experts in those fields.

(2) Vacancies in the membership of the Panel shall not affect the power of the remaining members to perform the duties of the Panel and shall be filled in the same manner in which the original appointment was made.

(3) Each member of the Panel not otherwise in the employ of the United States Government shall receive the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which such member is actually engaged in the performance of the duties of the Panel. Each member of the Panel shall be allowed travel expenses in the same manner as any individual employed intermittently by the Federal Government is allowed travel expenses under section 5703 of title 5, United States Code.

(4) By agreement between the chairmen of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, such Committees shall provide the Panel, on a reimbursable basis, office space, clerical personnel, and such supplies and equipment as may be necessary for the Panel to carry out its duties under this section. Subject to such limitations as the chairmen of such Committees may jointly prescribe, the Panel may appoint such additional personnel as the Panel considers necessary and fix the compensation of such personnel as it considers appropriate at an annual rate which does not exceed the rate of basic pay then payable for GS–18 of the General Schedule under section 5332 of title 5, United States Code, and may procure by contract the temporary or intermittent services of clerical personnel and experts or consultants, or organizations thereof.

(5) There are hereby authorized to be appropriated to the Panel, from amounts in the general fund of the Treasury not otherwise appropriated, such sums as are necessary to carry out the purposes of this section.

(c)(1) The Panel shall undertake, as soon as possible after the date of the enactment of this Act, a thorough study with respect to the implementation of removing the Social Security Administration from the Department of Health and Human Services and establishing it as an independent agency in the executive branch with its own independent administrative structure, including the possibility of such a structure headed by a board appointed by the President, by and with the advice and consent of the Senate.

(2) The Panel in its study under paragraph (1) shall address, analyze, and report specifically on the following matters:

(A) the manner in which the transition to an independent agency would be conducted;

(B) the authorities which would have to be transferred or amended in such a transition;

(C) any program or programs which would be included within the jurisdiction of the new agency;

(D) the legal and other relationships of the Social Security Administration with other organizations which would be required as a result of establishing the Social Security Administration as an independent agency; and

(E) any other details which may be necessary for the development of appropriate legislation to establish the Social Security Administration as an independent agency.

(d) The Panel shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than April 1, 1984, a report of the findings of the study conducted under subsection (c), together with any recommendations the Panel considers appropriate. The Panel and all authority granted in this section shall expire thirty days after the date of the filing of its report under this section.

LIMITATION ON PAYMENTS TO PRISONERS

SEC. 339. (a) Section 202 of the Social Security Act is amended by adding at the end thereof the following new subsection:

(x)(1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section, or under section 223 to any individual for any month during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense which constituted a felony under applicable law, unless such individual is actively and satisfactorily participating in a rehabilitation program which has been spefically approved for such individual by a court of law and, as determined by the Secretary, is expected to result in such individual being able to engage in substantial gainful activity upon release and within a reasonable time.

(2) Benefits which would be payable to any individual (other than a confined individual to whom benefits are not payable by reason of paragraph (1)) under this title on the basis of the wages and self-employment income of such a confined individual but for the provisions of paragraph (1), shall be payable as though such confined individual were receiving such benefits under this section.

(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Secretary, upon written request, the name and social security account number of any individual who is confined in a jail, prison, or other penal institution or correctional facility under the jurisdiction of such agency, pursuant to his conviction of an offense which constituted a felony under applicable law, which the Secretary may require to carry out the provisions of this subsection.

(b) Section 223 of such Act is amended by striking out subsection (f).

(c) The amendments made by subsections (a) and (b) shall apply with respect to monthly benefits payable for months beginning on or after the date of enactment of this Act.

REQUIREMENT OF PREVIOUS UNITED STATES RESIDENCY FOR ALIEN DEPENDENTS AND SURVIVORS LIVING OUTSIDE THE UNITED STATES

SEC. 340. (a) Section 202(t) of the Social Security Act is amended—

(1) in the heading, by adding after "United States" the following: "; Residency Requirements for Dependents and Survivors"; and

(2) by adding at the end thereof the following new paragraph:

"(11)(A) Paragraph (2) and subparagraphs (A), (B), (C), and (E) of paragraph (4) shall apply with respect to an individual's monthly benefits under subsection (b), (c), (d), (e), (f), (g), or (h) only if such individual meets the residency requirements of this paragraph with respect to those benefits.

"(B) An individual entitled to benefits under subsection (b), (c), (e), (f), or (g) meets the residency requirements of this paragraph with respect to those benefits only if such individual has resided in the United States, and while so residing bore a spousal relationship to the person on whose wages and self-employment income such entitlement is based, for a total period of not less than 5 years. For purposes of this subparagraph, a period of time for which an individual bears a spousal relationship to another person consists of a period throughout which the individual has been, with respect to such other person, a wife, a husband, a widow, a widower, a divorced wife, a divorced husband, a surviving divorced wife, a surviving divorced husband, a surviving divorced mother, a surviving divorced father, or (as applicable in the course of such period) any two or more of the foregoing.

"(C) An individual entitled to benefits under subsection (d) meets the residency requirements of this paragraph with respect to those benefits only if—

"(i)(I) such individual has resided in the United States (as the child of the person on whose wages and self-employment income such entitlement is based) for a total period of not less than 5 years, or

"(II) the person on whose wages and self-employment income such entitlement is based, and the individual's other parent (within the meaning of subsection (h)(3)), if any, have each resided in the United States for a total period of not less than 5 years (or died while residing in the United States), and

"(ii) in the case of an individual entitled to such benefits as an adopted child, such individual was adopted within the United States by the person on whose wages and self-employment income such entitlement is based, and has lived in the United States with such person and received at least one-half of his or her support from such person for a period (beginning before such individual attained age 18) consisting of—

"(I) the year immediately before the month in which such person became eligible for old-age insurance benefits or dis-

ability insurance benefits or died, whichever occurred first, or

"(II) if such person had a period of disability which continued until he or she became entitled to old-age insurance benefits or disability insurance benefits or died, the year immediately before the month in which such period of disability began.

"(D) An individual entitled to benefits under subsection (h) meets the residency requirements of this paragraph with respect to those benefits only if such individual has resided in the United States, and while so residing was a parent (within the meaning of subsection (h)(3)) of the person on whose wages and self-employment income such entitlement is based, for a total period of not less than 5 years.

"(E) This paragraph shall not apply with respect to any individual who is a citizen or resident of a foreign country with which the United States has an agreement in force concluded pursuant to section 233, except to the extent provided by such agreement.".

(b) Paragraphs (2) and (4) of section 202(t) of such Act are each amended by striking out "Paragraph (1) shall not apply" and inserting in lieu thereof "Subject to paragraph (11), paragraph (1) shall not apply".

(c) The amendments made by this section shall apply with respect to any individual who initially becomes eligible for benefits under section 202 or 223 after December 31, 1984.

ADDITION OF PUBLIC MEMBERS TO TRUST FUND BOARD OF TRUSTEES

SEC. 341. (a) Section 201(c) of the Social Security Act is amended—

(1) by inserting before the period at the end of the first sentence the following: ", and of two members of the public (both of whom may not be from the same political party), who shall be nominated by the President for a term of four years and subject to confirmation by the Senate"; and

(2) by adding at the end thereof the following new sentence: "A person serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Funds.".

(b) Section 1817(b) of such Act is amended—

(1) by inserting before the period at the end of the first sentence the following: ", and of two members of the public (both of whom may not be from the same political party), who shall be nominated by the President for a term of four years and subject to confirmation by the Senate", and

(2) by adding at the end thereof the following new sentence: "A person serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Fund.".

(c) Section 1841(b) of such Act is amended—

(1) by inserting before the period at the end of the first sentence the following: ", and of two members of the public (both of whom may not be from the same political party), who shall

be nominated by the President for a term of four years and subject to confirmation by the Senate'; and

(2) by adding at the end thereof the following new sentence: "A person serving on the Board of Trustees shall not be considered to be a fiduciary and shall not be personally liable for actions taken in such capacity with respect to the Trust Fund.".

(d) The amendments made by this section shall become effective on the date of enactment of this Act.

PAYMENT SCHEDULE BY STATE AND LOCAL GOVERNMENTS

SEC. 342. (a) Section 218(e)(1)(A) of the Social Security Act is amended to read as follows:

"(A) that the State will pay to the Secretary of the Treasury—

"(i) on the last day of each calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 with respect to the period which includes the first fifteen days of such calendar month if the services for which wages were paid in such period to employees covered by the agreement constituted employment covered by the agreement constituted employment as defined in section 3231 of such Code, and

"(ii) on the fifteenth day of the calendar month following such calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of such Code with respect to the period beginning with the sixteenth day of such calendar month and ending with the last day of such calendar month if the services for which wages were paid in such period to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and".

(b) The amendments made by this section shall apply to calendar months beginning after December 31, 1983.

EARNINGS SHARING IMPLEMENTATION REPORT

REPORT

SEC. 344. (a) The Secretary of Health and Human Services (hereinafter in this Part referred to as the "Secretary") shall develop, in consultation with the Senate Committee on Finance and the Committee on Ways and Means of the House of Representatives, proposals for earnings sharing legislation as described in subsection (b). The Secretary shall report such proposals to such committees not later than July 1, 1984. The report and proposals provided to such committees shall—

(1) take into account, discuss, and analyze the impact of earnings sharing on various categories of social security beneficiaries and include recommendations for the implementation of earnings sharing which may be necessary to provide adequate protection for particular classes of beneficiaries;

(2) include specific recommendations with respect to an appropriate and feasible time period or time periods for implementation of such proposals along with recommendations for any

transition provisions which may be necessary or appropriate; and

(3) provide cost-impact analyses on each proposal presented.

(b) For the purposes of subsection (a), the term "earnings sharing" refers to proposals that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for social security benefit purposes.

(c) In preparing the report and proposals required in subsection (a), the Secretary shall include consideration and analysis of the earnings sharing proposals contained in (1) S. 3, 98th Congress, 1st Session, (2) H.R. 1513, 97th Congress, 1st Session, and (3) the earnings sharing option described in the report entitled "Social Security and the Changing Roles of Men and Women", submitted to the Congress pursuant to Public Law 95–216, the Social Security Amendments of 1977.

(d) In carrying out subsections (a), (b), and (c), the Secretary shall consult with the Director of the Congressional Budget Office. Not later than 30 days after the Secretary submits the report required in subsection (a), the Director of the Congressional Budget Office shall submit a report to the committees identified in such subsection on the methodologies, recommendations, and analyses used in the Secretary's report.

VETERANS' ADMINISTRATION REORGANIZATION

REORGANIZATION

SEC. 345. The requirements of section 210(b)(2)(A) of title 38, United States Code, shall not apply to the planned administrative reorganization at the Veterans' Administration Los Angeles Data Processing Center involving the transfer of 25 full-time equivalent employees from the Office of Data Management and Technology to the Department of Medicine and Surgery of the Veterans' Administration.

SOCIAL SECURITY CARDS

SEC. 346. (a) Section 205(c)(2) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D) The Secretary shall issue a social security card to each individual at the time of the issuance of a social security account number to such individual. The social security card shall be made of banknote paper, and (to the maximum extent practicable) shall be a card which cannot be counterfeited.".

(b) The amendment made by this section shall apply with respect to all new and replacement social security cards issued more than 193 days after the date of the enactment of this Act.

(c) Within 90 days after the date of the enactment of this Act the Secretary of Health and Human Services shall report to the Congress on his plans for implementing the amendment made by this section.

BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

SEC. 347. (a)(1) Title VII of the Social Security Act (as amended by section 143 of this Act) is further amended by adding at the end thereof the following new section:

"BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

"SEC. 710. The disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund shall be treated as a separate major functional category in the budget of the United States Government as submitted by the President and in the congressional budget, and the receipts of such Trust Funds, including the taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954, shall be set forth separately in such budgets.".

(2)(A) The amendment made by paragraph (1) shall apply with respect to fiscal years beginning on or after October 1, 1984, and ending on or before September 30, 1992, except that such amendment shall apply with respect to the fiscal year beginning on October 1, 1983, to the extent it relates to the congressional budget.

(b) Effective for fiscal years beginning on or after October 1, 1992, section 710 of such Act (as added by subsection (a) of this section) is amended to read as follows:

"BUDGETARY TREATMENT OF TRUST FUND OPERATIONS

"SEC. 710. (a) The receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund and the taxes imposed under sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

"(b) The disbursements of the Federal Supplementary Medical Insurance Trust Fund shall be treated as a separate major functional category in the budget of the United States Government as submitted by the President and in the congressional budget, and the receipts of such Trust Fund shall be set forth separately in such budgets.".

LIBERALIZATION OF EARNINGS TEST

SEC. 348. (a) Section 203(f)(3) of the Social Security Act is amended by striking out "50 per centum of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8)" and inserting in lieu thereof the following: "33⅓ percent of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8) in the case of an individual who has attained retirement age (as defined in section 216(l)) before the close of such taxable *year, or 50 percent of his earnings for such year in excess of such product in the case of any other individual".*

(b) The amendment made by subsection (a) shall apply only in the case of individuals attaining retirement age (as defined in section 210(l) of the Social Security Act) after December 1989.

TITLE IV—SUPPLEMENTAL SECURITY INCOME BENEFITS

INCREASE IN FEDERAL SSI BENEFIT STANDARD

SEC. 401. (a)(1) Section 1617 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) Effective July 1, 1983—

"(1) each of the dollar amounts in effect under subsections (a)(1)(A) and (b)(1) of section 1611, as previously increased under this section, shall be increased by $240 (and the dollar amount in effect under subsection (a)(1)(A) section 211 of Public Law 93-66, as previously so increased, shall be increased by $120); and

"(2) each of the dollar amounts in effect under subsections (a)(2)(A) and (b)(2) of section 1611, as previously increased under this section, shall be increased by $360.".

(2) Section 1617(b) of such Act is amended by striking out "this section" and inserting in lieu thereof "subsection (a) of this section".

(b) Section 1617(a)(2) of such Act is amended by inserting ", or, if greater (in any case where the increase under title II was determined on the basis of the wage increase percentage rather than the CPI increase percentage), the percentage by which benefit amounts under title II would be increased for such month if the increase had been determined on the basis of the CPI increase percentage," after "are increased for such month".

ADJUSTMENTS IN FEDERAL SSI PASS-THROUGH PROVISIONS

SEC. 402. Section 1618 of the Social Security Act is amended by redesignating the subsection (c) which was added by Public Law 97-377 as subsection (d), and by adding at the end thereof the following new subsection:

"(e)(1) For any particular month after March 1983, a State which is not treated as meeting the requirements imposed by paragraph (4) of subsection (a) by reason of subsection (b) shall be treated as meeting such requirements if and only if—

"(A) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable (to or on behalf of such recipients) under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93-66, for that particular month,

is not less than—

"(B) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable (to or on behalf of such recipients) under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93-66, for March 1983, increased by the amount of all cost-of-living adjustments under section 1617 (and any other benefit increases under this title) which have occurred after March 1983 and before that particular month.

"(2) In determining the amount of any increase in the combined level involved under paragraph (1)(B) of this subsection, any portion of such amount which would otherwise be attributable to the increase under section 1617(c) shall be deemed instead to be equal to the amount of the cost-of-living adjustment which would have occurred in July 1983 (without regard to the 3-percent limitation contained in section 215(i)(1)(B)) if section 111 of the Social Security Amendments of 1983 had not been enacted.".

SSI ELIGIBILITY FOR TEMPORARY RESIDENTS OF EMERGENCY SHELTERS FOR THE HOMELESS

SEC. 403. (a) Section 1611(e)(1) of the Social Security Act is amended—

(1) by striking out "subparagraph (B) and (C)" in subparagraph (A) and inserting in lieu thereof "subparagraphs (B), (C), and (D)"; and

(2) by adding at the end thereof the following new subparagraph:

"(D) A person may be an eligible individual or eligible spouse for purposes of this title with respect to any month throughout which he is a resident of a public emergency shelter for the homeless (as defined in regulations which shall be prescribed by the Secretary); except that no person shall be an eligible individual or eligible spouse by reason of this subparagraph more than three months in any 12-month period.".

(b) The amendments made by subsection (a) shall be effective with respect to months after the month in which this Act is enacted.

DISREGARDING OF EMERGENCY AND OTHER IN-KIND ASSISTANCE PROVIDED BY NONPROFIT ORGANIZATIONS

SEC. 404. (a) Section 1612(b)(13) of the Social Security Act is amended by striking out "any assistance received" and all that follows down through "(B)" and inserting in lieu thereof the following: "any support or maintenance assistance furnished to or on behalf of such individual (and spouse if any) which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support or maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which".

(b) Section 402(a)(36) of such Act is amended by striking out "shall not include as income" and all that follows down through "(B)" and inserting in lieu thereof the following: "shall not include as income any support or maintenance assistance furnished to or on behalf of the family which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support and maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which".

(c) The amendments made by this section shall be effective with respect to months which begin after the month in which this Act is enacted and end before October 1, 1984.

NOTIFICATION REGARDING SSI

Sec. 405. Prior to July 1, 1984, the Secretary of Health and Human Services shall notify all elderly recipients of benefits under title II of the Social Security Act who may be eligible for supplemental security income benefits under title XVI of such act of the availability of the supplemental security income program, and shall encourage such recipients to contact the Social Security district office. Such notification shall also be made to all recipients prior to attainment of age 65, with the notification made with respect to eligibility for supplementary medical insurance.

TITLE V—UNEMPLOYMENT COMPENSATION PROVISIONS

Part A—Federal Supplemental Compensation

EXTENSION OF PROGRAM

Sec. 501. (a) Paragraph (2) of section 602(f) of the Federal Supplemental Compensation Act of 1982 is amended by striking out "March 31, 1983" and inserting in lieu thereof "September 30, 1983".

(b) Section 605(2) of such Act is amended by striking out "April 1, 1983" and inserting in lieu thereof "October 1, 1983".

NUMBER OF WEEKS FOR WHICH COMPENSATION PAYABLE

Sec. 502. (a) Subsection (e) of section 602 of the Federal Supplemental Compensation Act of 1982 is amended by redesignating paragraph (3) as paragraph (4) and by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:

"(2)(A) In the case of any account from which Federal supplemental compensation was first payable to an individual for a week beginning after March 31, 1983, the amount established in such account shall be equal to the lesser of—

"(i) 55 per centum of the total amount of regular compensation (including dependents' allowances) payable to the individual with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation, or

(ii) the applicable limit determined under the following table times his average weekly benefit amount for his benefit year,

"In the case of weeks during a:	*The applicable limit is:*
6-percent period	*14*
5-percent period	*12*
4-percent period	*10*
Low-unemployment period	*8*

"(B) In the case of any State whose applicable limit, as determined under clause (ii) of subparagraph (A) for the first week beginning after March 27, 1983, and after the date of the enactment of part A of title V of the Social Security Amendments of 1983, would be more than 4 weeks lower than the number of weeks applicable to such State under this paragraph as in effect for the week beginning March 27, 1983, the applicable limit for such State for that week and any succeeding week shall not be lower than 4 less than the

number so applicable to such State for the week beginning March 27, 1983.

"(C) In the case of any account from which Federal supplemental compensation was payable to an individual for a week beginning before April 1, 1983, the amount established in such account shall be equal to the lesser of the subparagraph (A) entitlement or the sum of—

"(i) the subparagraph (A) entitlement reduced (but not below zero) by the aggregate amount of Federal supplemental compensation paid to such individual for weeks beginning before April 1, 1983, plus

"(ii) such individual's additional entitlement.

"(D) For purposes of subparagraph (C) and this subparagraph—

"(i) The term 'subparagraph (A) entitlement' means the amount which would have been established in the account if subparagraph (A) had applied to such account.

"(ii) The term 'additional entitlement' means the lesser of—

"(I) three-fourths of the subparagraph (A) entitlement, or

"(II) the applicable limit determined under the following table times the individual's average weekly benefit amount for his benefit year.

"In the case of weeks during a:	*The applicable limit is:*
6-percent period	*10*
5-percent period	*8*
4-percent period	*8*
Low-employment period	*6*

"(E) Except as provided in subparagraph (C)(i), for purposes of determining the amount of Federal supplemental compensation payable for weeks beginning after March 31, 1983, from an account described in subparagraph (C), no reduction in such account shall be made by reason of any Federal supplemental compensation paid to the individual for weeks beginning before April 1, 1983.

"(3)(A) For purposes of this subsection, the terms '6-percent period', '5-percent period', '4-percent period', and 'low-unemployment period' mean, with respect to any State, the period which—

"(i) begins with the 3d week after the 1st week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks falls in the applicable range, and

"(ii) ends with the 3d week after the 1st week in which the rate of insured unemployment for the period consisting of such week and the immediately preceding 12 weeks does not fall within the applicable range.

"(B) For purposes of subparagraph (A), the applicable range is as follows:

"In the case of a:	*The applicable range is:*
6-percent period	*A rate equal to or exceeding 6 percent.*
5-percent period	*A rate equal to or exceeding 5 percent, but less than 6 percent.*
4-percent period	*A rate equal to or exceeding 4 percent, but less than 5 percent.*
Low-employment	*A rate less than 4 percent.*

"(C) No 6-percent period, 5-percent period, or 4-percent period, as the case may be, shall last for a period of less than 4 weeks unless the State enters a period with a higher percentage designation.

"(D) For purposes of this subsection—

"(i) The rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

"(ii) The amount of an individual's average weekly benefit amount shall be determined in the same manner as determined for purposes of section 202(b)(1)(C) of such Act.".

(b)(1) Section 602(f)(2) of such Act is amended by inserting before the period at the end thereof the following: "; except that in the case of any individual who received such compensation for the week preceding the last week beginning after such date, such compensation shall be payable to such individual for weeks beginning after such date, but the total amount of such compensation payable for such weeks shall be limited to 50 percent of the total amount which would otherwise be payable for such weeks".

(2) Section 605(2) of such Act is amended by inserting before the semicolon the following: "(except as otherwise provided in section 602(f)(2))".

(c) Paragraph (3) of section 602(d) of the Federal Supplemental Compensation Act of 1982 is amended to read as follows:

"(3) the maximum amount of Federal supplemental compensation payable to any individual for whom an account is established under subsection (e) shall not exceed the lesser of (A) the amount established in such account for such individual, or (B) in the case of an individual filing a claim under the interstate benefit payment plan for Federal supplemental compensation, the amount which would have been established in such account if the amount established in such account were determined by reference to the applicable limit under subparagraph (A)(ii) or (D)(ii) of subsection (e)(2) applicable in the State in which the individual is filing such interstate claim under the interstate benefit payment plan for the week in which he is filing such claim."

EFFECTIVE DATE

SEC. 503. (a) The amendments made by this part shall apply to weeks beginning after March 31, 1983.

(b) In the case of any eligible individual—

(1) to whom any Federal supplemental compensation was payable for any week beginning before April 1, 1983, and

(2) who exhausted his rights to such compensation (by reason of the payment of all the amount in his Federal supplemental compensation account) before the first week beginning after March 31, 1983,

such individual's eligibility for additional weeks of compensation by reason of the amendments made by this part shall not be limited or terminated by reason of any event, or failure to meet any requirement of law relating to eligibility for unemployment compensation, occurring after the date of such exhaustion of rights and before

April 1, 1983 (and the period after such exhaustion and before April 1, 1983, shall not be counted for purposes of determining the expiration of the two years following the end of his benefit year for purposes of section 602(b) of the Federal Supplemental Compensation Act of 1982).

(c) The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 602 of the Federal Supplemental Compensation Act of 1982 a modification of such agreement designed to provide for the payment of Federal supplemental compensation under such Act in accordance with the amendments made by this part. Notwithstanding any other provision of law, if any State fails or refuses, within the 3-week period beginning on the date the Secretary of Labor proposed such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before such 3-week period.

TRAINING

SEC. 504. Section 602 of the Federal Supplemental Compensation Act of 1982 is amended by adding at the end thereof the following new subsection:

"(g) The payment of Federal supplemental compensation shall not be denied to any recipient (who submits documentation prescribed by the Secretary) for any week because the recipient is in training or attending an accredited educational institution on a substantially full-time basis, or because of the application of State law to any such recipient relating to the availability for work, the active search for work, or the refusal to accept work on account of such training or attendance, unless the State agency determines that such training or attendance will not improve the opportunities for employment of the recipient.".

COORDINATION WITH TRADE READJUSTMENT PROGRAM

SEC. 505. Subsection (e) of section 602 of the Federal Supplemental Compensation Act of 1982 is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (B), the maximum amount of Federal supplemental compensation payable to an individual shall not be reduced by reason of any trade readjustment allowances to which the individual was entitled under the Trade Act of 1974.

"(B) If an individual received any trade readjustment allowance under the Trade Act of 1974 in respect of any benefit year, the maximum amount of Federal supplemental compensation payable under this subtitle in respect of such benefit year shall be reduced (but not below zero) so that (to the extent possible by making such a reduction) the aggregate amount of—

"(i) regular compensation,
"(ii) extended compensation,
"(iii) trade readjustment allowances, and
"(iv) Federal supplemental compensation,

payable in respect of such benefit year does not exceed the aggregate amount which would have been so payable had the individual not been entitled to any trade readjustment allowance."

PART B—PROVISIONS RELATING TO INTEREST AND CREDIT REDUCTIONS

DEFERRAL OF INTEREST

SEC. 511. (a) Section 1202(b) of the Social Security Act is amended by adding at the end thereof the following new paragraphs:

"(8)(A) With respect to interest due under this section on September 30 of 1983, 1984, or 1985 (other than interest previously deferred under paragraph (3)(C)), a State may pay 80 percent of such interest in four annual installments of at least 20 percent beginning with the year after the year in which it is otherwise due, if such State meets the criteria of subparagraph (B). No interest shall accrue on such deferred interest.

"(B) To meet the criteria of this subparagraph a State must—

"(i) have taken no action since October 1, 1982, which would reduce its net unemployment tax effort or the net solvency of its unemployment system (as determined for purposes of section 3302(f) of the Internal Revenue Code of 1954); and

"(ii)(I) have taken an action (as certified by the Secretary of Labor) after March 31, 1982, which would have increased revenue liabilities and decreased benefits under the State's unemployment compensation system (hereinafter referred to as a 'solvency effort') by a combined total of the applicable percentage (as compared to such revenues and benefits as would have been in effect without such State action) for the calendar year for which the deferral is requested; or

"(II) have had, for taxable year 1982, an average unemployment tax rate which was equal to or greater than 2.0 percent of the total of the wages (as determined without any limitation on amount) attributable to such State subject to contribution under the State unemployment compensation law with respect to such taxable years.

In the case of the first year for which there is a deferral (over a 4-year period) of the interest otherwise payable for such year, the applicable percentage shall be 25 percent. In the case of the second such year, the applicable percentage shall be 35 percent. In the case of the second such year, the applicable percentage shall be 50 percent.

"(C)(i) The base year is the first year for which deferral under this provision is requested and subsequently granted. The Secretary of Labor shall estimate the unemployment rate for the base year. To determine whether a State meets the requirements of subparagraph (B)(ii)(I), the Secretary of Labor shall determine the percentage by which the benefits and taxes in the base year with the application of the action referred to in subparagraph (B)(ii)(I) are lower or greater, as the case may be, than such benefits and taxes would have been without the application of such action. In making this determination, the Secretary shall deem the application of the action referred to in subparagraph (B)(ii)(I) to have been effective for the base

year to the same extent as such action is effective for the year following the year for which the deferral is sought. Once a deferral is approved under clause (ii)(I) of subparagraph (B) a State must continue to maintain its solvency effort. Failure to do so shall result in the State being required to make immediate payment of all deferred interest.

"(ii) Increases in the taxable wage base from $6,000 to $7,000 or increases after 1984 in the maximum tax rate to 5.4 percent shall not be counted for purposes of meeting the requirement of subparagraph (B).

"(D) In the case of a State which produces a solvency effort of 50 percent, 80 percent, and 90 percent rather than the 25 percent, 35 percent, 50 percent required under subparagraph (B), the interest shall be computed at an interest rate which is 1 percentage point less than the otherwise applicable interest rate.

"(9) Any interest otherwise due from a State on September 30 of a calendar year after 1982 may be deferred (and no interest shall accrue on such deferred interest) for a grace period of not to exceed 9 months if, for the most recent 12-month period for which data are available before the date such interest is otherwise due, the State had an average total unemployment rate of 13.5 percent or greater."

(b) Section 1202(b)(7) of such Act is amended by striking out ", and before January 1, 1988".

(c) Section 1202(b)(3)(C)(i) of the Social Security Act is amended by striking the matter that follows clause (II) and inserting "No interest shall accrue on deferred interest."

CAP ON CREDIT REDUCTION

SEC. 512. (a)(1) Section 3302(f) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph:

"(8) PARTIAL LIMITATION.—

"(A) In the case of a State which would meet the requirements of this subsection for a taxable year prior to 1987 but for its failure to meet one of the requirements contained in subparagraph (C) or (D) of paragraph (2), the reduction under subsection (c)(2) in credits otherwise applicable to taxpayers in such State for such taxable year and each subsequent year (in a period of consecutive years for each of which a credit reduction is in effect for taxpayers in such State) shall be reduced by 0.1 percentage point.

"(B) In the case of a State which does not meet the requirements of paragraph (2) but meets the requirements of subparagraphs (A) and (B) of paragraph (2) and which also meets the requirements of section 1202(b)(8)(B) of the Social Security Act with respect to such taxable year, the reduction under subsection (c)(2) in credits otherwise applicable to taxpayers in such State for such taxable year and each subsequent year (in a period of consecutive years for each of which a credit reduction is in effect for taxpayers in such State) shall be further reduced by an additional 0.1 percentage point.

"(C) In no case shall the application of subparagraphs (A) and (B) reduce the credit reduction otherwise applicable under subsection (c)(2) below the limitation under paragraph (1)."

(2) The amendment made by paragraph (1) shall apply with respect to taxable year 1983 and taxable years thereafter.

(b) Section 3302(f)(1) of such Code is amended by striking out "beginning before January 1, 1988,".

AVERAGE EMPLOYER CONTRIBUTION RATE

SEC. 513. (a) Section 3302(d)(4)(B) of the Internal Revenue Code of 1954 is amended to read as follows:

> *"(B)(i) for purposes of subparagraph (B) of subsection (c)(2), the total of the wages (as determined without any limitation on amount) attributable to such State subject to contributions under this chapter with respect to such calendar year, and*
>
> *"(ii) for purposes of subparagraph (C) of subsection (c)(2), the total of the remuneration subject to contributions under the State unemployment compensation law with respect to such calendar year."*

(b) Section 3302(c)(2)(B)(i) of such Code is amended by striking out "2.7" and inserting in lieu thereof "2.7 multiplied by a fraction, the numerator of which is the wage base under this chapter and the denominator of which is the estimated United States average annual wage in covered employment for the calendar year in which the determination is to be made".

(c) Section 3302(c)(2)(B) of such Code is amended by inserting after "(if any)" and following: ", multiplied by a fraction, the numerator of which is the State's average annual wage in covered employment for the calendar year in which the determination is made and the denominator of which is the wage base under this chapter,".

(d) The amendments made by this section shall be effective for taxable year 1983 and taxable years thereafter.

DATE FOR PAYMENT OF INTEREST

SEC. 514. Section 1202(b)(3)(A) of the Social Security Act is amended by striking out "not later than" and inserting in lieu thereof "prior to".

PENALTY FOR FAILURE TO PAY INTEREST

SEC. 515. (a) Section 303(c) of the Social Security Act is amended by striking out "or" at the end of paragraph (1), striking out the period at the end of paragraph (2) and inserting "; or", and adding at the end thereof the following new paragraph:

> *"(3) that any interest required to be paid on advances under title XII of this Act has not been paid by the date on which such interest is required to be paid or has been paid directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) by such State from amounts in such State's unemployment fund, until such interest is properly paid.".*

(b) Section 3304(a) of the Internal Revenue Code of 1954 (relating to certification of State unemployment compensation laws) is

amended by redesignating paragraph (17) as paragraph (18) and by inserting after paragraph (16) the following new paragraph:

> *"(17) any interest required to be paid on advances under title XII of the Social Security Act shall be paid in a timely manner and shall not be paid, directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) by such State from amounts in such State's unemployment fund; and".*

PART C—MISCELLANEOUS PROVISIONS

TREATMENT OF EMPLOYEES PROVIDING SERVICES TO EDUCATIONAL INSTITUTIONS

SEC. 521. (a)(1) Section 3304(a)(6)(A) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new clause:

> *"(v) with respect to services to which section 3309(a)(1) applies, if such services are provided to or on behalf of an educational institution, compensation may be denied under the same circumstances as described in clauses (i) through (iv), and".*

(2) Clauses (ii)(I), (iii), and (iv) of such section are each amended by striking out "may be denied" and inserting in lieu thereof "shall be denied".

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after April 1, 1984.

(2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to comply with the amendment made by this section, the amendment made by this section shall apply in the case of compensation paid for weeks which begin on or after April 1, 1984, and after the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

EXTENDED BENEFIT FOR INDIVIDUALS WHO ARE HOSPITALIZED OR ON JURY DUTY

SEC. 522. (a) Clause (ii) of paragraph (3)(A) of section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended to read as follows:

> *"(ii) during which he fails to actively engage in seeking work, unless such individual is not actively engaged in seeking work because such individual is, as determined in accordance with State law—*
>
> > *"(I) before any court of the United States or any State pursuant to a lawfully issued summons to appear for jury duty (as such term may be defined by the Secretary of Labor), or*
> >
> > *"(II) hospitalized for treatment of an emergency or a life-threatening condition (as such term may be defined by such Secretary),*

if such exemptions in clauses (I) and (II) apply to recipients of regular benefits, and the State chooses to apply such exemptions for recipients of extended benefits; or".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

VOLUNTARY HEALTH INSURANCE PROGRAMS PERMITTED

SEC. 523. (a) AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954.—Paragraph (4) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State unemployment compensation laws) is amended by striking out "and" at the end of subparagraph (A), by adding "and" at the end of subparagraph (B), and by adding after subparagraph (B) the following new subparagraph:

> *"(C) nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor;".*

(b) AMENDMENT OF SOCIAL SECURITY ACT.—Paragraph (5) of section 303(a) of the Social Security Act is amended by striking out "; and" at the end thereof and inserting in lieu thereof ": Provided further, That nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor; and".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TREATMENT OF CERTAIN ORGANIZATIONS RETROACTIVELY DETERMINED TO BE DESCRIBED IN SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1954

SEC. 524. If—

(1) an organization did not make an election to make payments (in lieu of contributions) as provided in section 3309(a)(2) of the Internal Revenue Code of 1954 before April 1, 1972, because such organization, as of such date, was treated as an organization described in section 501(c)(4) of such Code,

(2) the Internal Revenue Service subsequently determined that such organization was described in section 501(c)(3) of such Code, and

(3) such organization made such an election before the earlier of—

(A) the date 18 months after such election was first available to it under the State law, or

(B) January 1, 1984,

then section 3303(f) of such Code shall be applied with respect to such organization as if it did not contain the requirement that the *election be made before April 1, 1972, and by substituting "January 1, 1982" for "January 1, 1969".*

TITLE VI—PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT HOSPITAL SERVICES

MEDICARE PAYMENTS FOR INPATIENT HOSPITAL SERVICES ON THE BASIS OF PROSPECTIVE RATES

SEC. 601. (a)(1) Subsection (a)(1) of section 1886 of the Social Security Act is amended by adding at the end the following new subparagraph:

"(D) Subparagraph (A) shall not apply to cost reporting periods beginning on or after October 1, 1983.".

(2) Subsection (a)(4) of such section is amended by adding at the end the following new sentence: "Such term does not include costs of approved educational activities, or, with respect to costs incurred in cost reporting periods beginning prior to October 1, 1986, capital related costs, as defined by the Secretary.".

(3) It is the intent of Congress that, in considering the implementation of a system for including capital-related costs under a prospectively determined payment rate for inpatient hospital services, costs related to capital projects for which expenditures are obligated on or after the effective date of the implementation of such system, may or may not be distinguished and treated differently from costs of projects for which expenditures were obligated before such date.

(b) Section 1886(b) of such Act is amended—

(1) by striking out "Notwithstanding sections 1814(b), but subject to the provisions of sections" in paragraph (1) and inserting in lieu thereof "Notwithstanding section 1814(b) but subject to the provisions of section.";

(2) by inserting "(other than a subsection (d) hospital, as defined in subsection (d)(1)(B))" in the matter before subparagraph (A) of paragraph (1) after "of a hospital";

(3) by inserting, in the matter in paragraph (1) following subparagraph (B), "(other than on the basis of a DRG prospective payment rate determined under subsection (d))" after "payable under this title";

(4) by repealing paragraph (2);

(5) by inserting "and subsection (d) and except as provided in subsection (e)" in paragraph (3)(B) after "subparagraph (A)";

(6) by inserting "or fiscal year" after "cost reporting period" each place it appears in paragraph (3)(B);

(7) by inserting "before the beginning of the period or year" in paragraph (3)(B) after "estimated by the Secretary";

(8) by striking out "exceeds" in paragraph (3)(B) and inserting in lieu thereof "will exceed"; and

(9) by amending paragraph (6), effective with respect to cost reporting periods beginning on or after October 1, 1982, to read as follows:

"(6) In the case of any hospital which becomes subject to the taxes under section 3111 of the Internal Revenue Code of 1954, with respect to any or all of its employees, for part or all of a cost reporting period, and was not subject to such taxes with respect to any or all

of its employees for all or part of the 12-month base cost reporting period referred to in subsection (b)(3)(A)(i), the Secretary shall provide for an adjustment by increasing the base period amount described in such subsection for such hospital by an amount equal to the amount of such taxes which would have been paid or accrued by such hospital for such base period if such hospital had been subject to such taxes for all of such base period with respect to all its employees, minus the amount of any such taxes actually paid or accrued for such base period.".

(c)(1) Subsection (c)(1) of such section is amended—

(A) by striking out "and" at the end of subparagraph (B),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof; and

(C) by adding at the end the following:

"(D) the Secretary determines that the system will not preclude an eligible organization (as defined in section 1876(b)) from negotiating directly with hospitals with respect to the organization's rate of payment for inpatient hospital services; and

"(E) the Secretary determines that the system requires hospitals to meet the requirement of section 1866(a)(1)(G) and the system provides for the exclusion of certain costs in accordance with section 1862(a)(14) (except for such waivers thereof as the Secretary provides by regulation).

The Secretary cannot deny the application of a State under this subsection on the ground that the State's hospital reimbursement control system is based on a payment methodology other than on the basis of a diagnosis-related group or on the ground that the amount of payments made under this title under such system must be less than the amount of payments which would otherwise have been made under this title not using such system. If the Secretary determines that the conditions described in subparagraph (C) are based on maintaining payment amounts at no more than a specified percentage increase above the payment amounts in a base period, the State has the option of applying such test (for inpatient hospital services under part A) on an aggregate payment basis or on the basis of the amount of payment per inpatient discharge or admission. If the Secretary determines that the conditions described in subparagraph (C) are based on maintaining aggregate payment amounts below a national average percentage increase in total payments under part A for inpatient hospital services, the Secretary cannot deny the application of a State under this subsection on the ground that the State's rate of increase in such payments for such services must be less than such national average rate of increase.";

(2) Subsection (c)(3) of such section is amended——

(A) by striking out "requirement of paragraph (1)(A)" and inserting in lieu thereof "requirements of subparagraphs (A), (D), and (E) of paragraph (1) and, if applicable, the requirements of paragraph (5),", and

(B) by inserting "(or, if applicable, in paragraph (5))" in subparagraph (B) after "paragraph (1)".

(3) Subsection (c) of such section is further amended by adding at the end the following new paragraphs:

"(4) The Secretary shall approve the request of a State under paragraph (1) with respect to a hospital reimbursement control system if—

"(A) the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1) have been met with respect to the system, and

"(B) with respect to that system a waiver of certain requirements of title XVIII of the Social Security Act has been approved on or before (and which is in effect as of) the date of the enactment of the Social Security Act Amendments of 1983, pursuant to section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972.

With respect to a State system described in this paragraph, the Secretary shall judge the effectiveness of such system on the basis of its rate of increase or inflation in inpatient hospital payments for individuals under this title, as compared to the national rate of increase or inflation for such payments, with the State retaining the option to have the test applied on the basis of the aggregate payment or payments per inpatient admission or discharge during the three cost reporting periods beginning on or after October 1, 1983, after which such test, at the option of the Secretary, shall no longer apply, and such State systems shall be treated in the same manner as under other waivers.

"(5) The Secretary shall approve the request of a State under paragraph (1) with respect to a hospital reimbursement control system if—

"(A) the requirements of subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) have been met with respect to the system;

"(B) the Secretary determines that the system—

"(i) is operated directly by the State or by an entity designated pursuant to State law,

"(ii) provides for payment of hospitals covered under the system under a methodology (which sets forth exceptions and adjustments, as well as any method for changes in the methodology) by which rates or amounts to be paid for hospital services during a specified period are established under the system prior to the defined rate period, and

"(iii) hospitals covered under the system will make such reports (in lieu of cost and other reports, identified by the Secretary, otherwise required under this title) as the Secretary may require in order to properly monitor assurances provided under this subsection;

"(C) the State has provided the Secretary with satisfactory assurances that operation of the system will not result in any change in hospital admission practices which result in—

"(i) a significant reduction in the proportion of patients (receiving hospital services covered under the system) who have no third-party coverage and who are unable to pay for hospital services,

"(ii) a significant reduction in the proportion of individuals admitted to hospitals for inpatient hospital services for which payment is (or is likely to be) less than the anticipated charges for or costs of such services,

"(iii) the refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital, or

"(iv) the refusal to provide emergency services to any person who is in need of emergency services if the hospital provides such services;

"(D) any change by the State in the system which has the effect of materially reducing payments to hospitals can only take effect upon 60 days notice to the Secretary and to the hospitals the payment to which is likely to be materially affected by the change; and

"(E) the State has provided the Secretary with satisfactory assurances that in the development of the system the State has consulted with local governmental officials concerning the impact of the system on public hospitals.

The Secretary shall response to requests of States under this paragraph within 60 days of the date the request is submitted to the Secretary.

"(6) If the Secretary determines that the assurances described in paragraph (1)(C) have not been met with respect to any 36-month period, the Secretary may reduce payments under this title to hospitals under the system in an amount equal to the amount by which the payments under this title under such system for such period exceeded the amount of payments which would otherwise have been made under this title not using such system.".

(d) Subsection (d) of such section, as added by section 110 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended—

(1) by striking out "section 1814(b)" in paragraph (2)(A) and inserting in lieu thereof "subsection (b)", and

(2) by redesignating the subsection as subsection (j) and transferring and inserting such subsection at the end of section 1814 of the Social Security Act under the following heading:

"ELIMINATION OF LESSER-OF-COST-OR-CHARGES PROVISION".

(e) Such section 1886 is further amended by adding at the end the following new subsections:

"(d)(1)(A) Notwithstanding section 1814(b) but subject to the provisions of section 1813, the amount of the payment with respect to the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a subsection (d) hospital (as defined in subparagraph (B)) for inpatient hospital discharges in a cost reporting period or in a fiscal year—

"(i) beginning on or after October 1, 1983, and before October 1, 1984, is equal to the sum of—

"(I) the target percentage (as defined in subparagraph (C)) of the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(A), but determined without the application of subsection (a)), and

"(II) the DRG percentage (as defined in subparagraph (C)) of the regional adjusted DRG prospective payment rate determined under paragraph (2) for such discharges;

"(ii) beginning on or after October 1, 1984, and before October 1, 1986, is equal to the sum of—

"(I) the target percentage (as defined in subparagraph (C)) of the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(A), but determined without the application of subsection (a)), and

"(II) the DRG percentage (as defined in subparagraph (C)) of the applicable combined adjusted DRG prospective payment rate determined under subparagraph (D) for such discharges; or

"(iii) beginning on or after October 1, 1986, is equal to the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges.

"(B) As used in this section, the term 'subsection (d) hospital' means a hospital located in one of the fifty States or the District of Columbia other than—

"(i) a psychiatric hospital (as defined in section 1861(f)),

"(ii) a rehabilitation hospital (as defined by the Secretary),

"(iii) a hospital whose inpatients are predominantly individuals under 18 years of age, or

"(iv) a hospital which has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days;

and, in accordance with regulations of the Secretary, does not include a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital (as defined by the Secretary).

"(C) For purposes of this subsection, for cost reporting periods beginning, or discharges occurring—

"(i) on or after October 1, 1983, and before October 1, 1984, the 'target percentage' is 75 percent and the 'DRG percentage' is 25 percent;

"(ii) on or after October 1, 1984, and before October 1, 1985, the 'target percentage' is 50 percent and the 'DRG percentage' is 50 percent; and

"(iii) on or after October 1, 1985, and before October 1, 1986, the 'target percentage' is 25 percent and the 'DRG percentage' is 75 percent.

"(D) For purposes of subparagraph (A)(ii)(II), the 'applicable combined adjusted DRG prospective payment rate' for cost reporting periods beginning, or discharges occurring—

"(i) on or after October 1, 1984, and before October 1, 1985, is a combined rate consisting of 25 percent of the national adjusted DRG prospective payment rate, and 75 percent of the regional adjusted DRG prospective payment rate, determined under paragraph (3) for such discharges; and

"(ii) on or after October 1, 1985, and before October 1 1986, is a combined rate consisting of 50 percent of the national adjusted DRG prospective payment rate, and 50 percent of the regional adjusted DRG prospective payment rate, determined under paragraph (3) for such discharges.

"(2) The Secretary shall determine a national adjusted DRG prospective payment rate, for each inpatient hospital discharge in fiscal year 1984 involving inpatient hospital services of a subsection (d) hospital in the United States, and shall determine a regional ad-

justed DRG prospective payment rate for such discharges in each region, for which payment may be made under part A of this title. Each such rate shall be determined for hospitals located in urban or rural areas within the United States or within each such region, respectively, as follows:

"(A) DETERMINING ALLOWABLE INDIVIDUAL HOSPITAL COSTS FOR BASE PERIOD.—The Secretary shall determine the allowable operating costs per discharge of inpatient hospital services for the hospital for the most recent cost reporting period for which data are available.

"(B) UPDATING FOR FISCAL YEAR 1984.—The Secretary shall update each amount determined under subparagraph (A) for fiscal year 1984 by—

"(i) updating for fiscal year 1983 by the estimated average rate of change of hospital costs industry-wide between the cost reporting period used under such subparagraph and fiscal year 1983 and the most recent case-mix data available, and

"(ii) projecting for fiscal year 1984 by the applicable percentage increase (as defined in subsection (b)(3)(B)) for fiscal year 1984.

"(C) STANDARDIZING AMOUNTS.—The Secretary shall standardize the amount updated under subparagraph (B) for each hospital by—

"(i) excluding an estimate of indirect medical education costs,

"(ii) adjusting for variations among hospitals by area and region in the average hospital wage level, and

"(iii) adjusting for variations in case mix among hospitals.

"(D) COMPUTING URBAN AND RURAL AVERAGES.—The Secretary shall compute an average of the standardized amounts determined under subparagraph (C) for the United States and for each region—

"(i) for all subsection (d) hospitals located in an urban area within the United States or that region, respectively, and

"(ii) for all subsection (d) hospitals located in a rural area within the United States or that region, respectively.

For purposes of this subsection, the term 'region' means one of the nine census divisions, comprising the fifty States and the District of Columbia, established by the Bureau of the Census for statistical and reporting purposes; the term 'urban area' means an area within a Standard Metropolitan Statistical, Area (as defined by the Office of Management and Budget) or within such similar area as the Secretary has recognized under subsection (a) by regulation; and the term 'rural area' means any area outside such an area or similar area.

"(E) REDUCING FOR VALUE OF OUTLIER PAYMENTS.—The Secretary shall reduce each of the average standardized amounts determined under subparagraph (D) by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this subsection based on DRG prospective payment

rates which are additional payments described in paragraph (5)(A) (relating to outlier payments).

"(F) MAINTAINING BUDGET NEUTRALITY.—The Secretary shall adjust each of such average standardized amounts as may be required under subsection (e)(1)(B) for that fiscal year.

"(G) COMPUTING DRG-SPECIFIC RATES FOR URBAN AND RURAL HOSPITALS IN THE UNITED STATES AND IN EACH REGION.—For each discharge classified within a diagnosis-related group, the Secretary shall establish a national DRG prospective payment rate and shall establish a regional DRG prospective payment rate for each region, each of which is equal—

"(i) for hospitals located in an urban area in the United States or in that region respectively, to the product of—

"(I) the average standardized amount (computed under subparagraph (D), reduced under subparagraph (E), and adjusted under subparagraph (F)) for hospitals located in an urban area in the United States or that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group; and

"(ii) for hospitals located in a rural area in the United States or that region respectively, to the product of—

"(I) the average standardized amount (computed under subparagraph (D), reduced under subparagraph (E), and adjusted under subparagraph (F)) for hospitals located in a rural area in the United States or that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

"(H) ADJUSTING FOR DIFFERENT AREA WAGE LEVELS.—The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the national and regional DRG prospective payment rates computed under subparagraph (G) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.

"(3) The Secretary shall determine a national adjusted DRG prospective payment rate, for each inpatient hospital discharge in a fiscal year after fiscal year 1984 involving inpatient hospital services of a subsection (d) hospital in the United States, and shall determine a regional adjusted DRG prospective payment rate for such discharges in each region for which payment may be made under part A of this title. Each such rate shall be determined for hospitals located in urban or rural areas within the United States and within each such region, respectively, as follows:

"(A) UPDATING PREVIOUS STANDARDIZED AMOUNTS.—The Secretary shall compute an average standardized amount for hospitals located in an urban area and for hospitals located in a rural area within the the United States and for hospitals located in an urban area and for hospitals located in a rural area within each region, equal to the respective average standardized amount computed for the previous fiscal year under paragraph

(2)(D) or under this subparagraph, increased for fiscal year 1985 by the applicable percentage increase under subsection (b)(3)(B), and adjusted for subsequent fiscal years in accordance with the final determination of the Secretary under subsection (e)(4), and adjusted to reflect the most recent case-mix data available.

"(B) REDUCING FOR VALUE OF OUTLIER PAYMENTS.—The Secretary shall reduce each of the average standardized amounts determined under subparagraph (A) by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this subsection based on DRG prospective payment amounts which are additional payments described in paragraph (5)(A) (relating to outlier payments).

"(C) MAINTAINING BUDGET NEUTRALITY.—The Secretary shall adjust each of such average standardized amounts as may be required under subsection (e)(1)(B) for that fiscal year.

"(D) COMPUTING DRG-SPECIFIC RATES FOR URBAN AND RURAL HOSPITALS.—For each discharge classified within a diagnosis-related group, the Secretary shall establish for the fiscal year a national DRG prospective payment rate and shall establish a regional DRG prospective payment rate, for each region, each of which is equal—

"(i) for hospitals located in an urban area in the United States or that region (respectively), to the product of—

"(I) the average standardized amount (computed under subparagraph (A), reduced under subparagraph (B), and adjusted under subparagraph (C)) for the fiscal year for hospitals located in an urban area in the United States or that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group; and

"(ii) for hospitals located in a rural area in the United States or that region (respectively), to the product of—

"(I) the average standardized amount (computed under subparagraph (A), reduced under subparagraph (B), and adjusted under subparagraph (C)) for the fiscal year for hospitals located in a rural area in the United States or that region, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

"(E) ADJUSTING FOR DIFFERENT AREA WAGE LEVELS.—The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the DRG prospective payment rates computed under subparagraph (D) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.

"(4)(A) The Secretary shall establish a classification of inpatient hospital discharges by diagnosis-related groups and a methodology for classifying specific hospital discharges within these groups.

"(B) For each such diagnosis-related group the Secretary shall assign an appropriate weighting factor which reflects the relative

hospital resources used with respect to discharges classified within that group compared to discharges classified within other groups.

"(C) The Secretary shall adjust the classifications and weighting factors established under subparagraphs (A) and (B), for discharges in fiscal year 1986 and at least every four fiscal years thereafter to reflect changes in treatment patterns, technology, and other factors which may change the relative use of hospital resources.

"(D) The Commission (established under subsection (e)(2)) shall consult with and make recommendations to the Secretary with respect to the need for adjustments under subparagraph (C), based upon its evaluation of scientific evidence with respect to new practices, including the use of new technologies and treatment modalities. The Commission shall report to the Congress with respect to its evaluation of any adjustments made by the Secretary under subparagraph (C).

"(5)(A)(i) The Secretary shall provide for an additional payment for a subsection (d) hospital for any discharge in a diagnosis-related group, the length of stay of which exceeds the mean length of stay for discharges within that group by a fixed number of days, or exceeds such mean length of stay by some fixed number of standard deviations, whichever is the fewer number of days.

"(ii) For cases which are not included in clause (i), a subsection (d) hospital may request additional payments in any case where charges, adjusted to cost, exceed a fixed multiple of the applicable DRG prospective payment rate, or exceed such other fixed dollar amount, whichever is greater.

"(iii) The amount of such additional payment under clauses (i) and (ii) shall be determined by the Secretary and shall approximate the marginal cost of care beyond the cutoff point applicable under clause (i) or (ii).

"(iv) The total amount of the additional payments made under this subparagraph for discharges in a fiscal year may not be less than 5 percent nor more than 6 percent of the total payments projected or estimated to be made based on DRG prospective payment rates for discharges in that year.

"(B) The Secretary shall provide for an additional payment amount for subsection (d) hospitals with indirect costs of medical education, in an amount computed in the same manner as the adjustment for such costs under regulations (in effect as of January 1, 1983) under subsection (a)(2), except that in the computation under this subparagraph the Secretary shall use an educational adjustment factor equal to twice the factor provided under such regulations.

"(C)(i) The Secretary shall provide for such exceptions and adjustments to the payment amounts established under this subsection as the Secretary deems appropriate to take into account the special needs of regional and national referral centers (including those hospitals of 500 or more beds located in rural areas), and of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title.

"(ii) With respect to a subsection (d) hospital which is a 'sole community hospital', payment under paragraph (1)(A) for any cost reporting period or fiscal year beginning on or after October 1, 1984,

shall be determined under the formula provided in clause (i) of that paragraph (except that any reference to paragraph (2) shall be deemed, for this purpose, a reference to paragraph (3)). In the case of a sole community hospital that experiences, in a cost reporting period (beginning on or after October 1, 1983, and before October 1, 1986) compared to the previous cost reporting period, a decrease of more than 5 percent in its total number of inpatient cases due to circumstances beyond its control, the Secretary shall provide for such adjustment to the payment amounts under this subsection as may be necessary to fully compensate the hospital for the fixed costs it incurs in the period in providing inpatient hospital services, including the reasonable cost of maintaining necessary core staff and services. For purposes of this subparagraph, the term 'sole community hospital' means a hospital that, by reason of factors such as isolated location, weather conditions, travel conditions, or absence of other hospitals (as determined by the Secretary), is the sole source of inpatient hospital services reasonably available to individuals in a geographical area who are entitled to benefits under part A.

"(iii) The Secretary shall provide by regulation for such other exceptions and adjustments to such payment amounts under this subsection as the Secretary deems appropriate (including exceptions and adjustments that may be appropriate with respect to hospitals involved extensively in treatment for and research on cancer).

"(iv) The Secretary may provide for such adjustments to the payment amounts under this subsection as the Secretary deems appropriate to take into account the unique circumstances of hospitals located in Alaska and Hawaii.

"(D)(i) The Secretary shall estimate the amount of reimbursement made for services described in section 1862(a)(14) with respect to which payment was made under part B in the base reporting periods referred to in paragraph (2)(A) and with respect to which payment is no longer being made.

"(ii) The Secretary shall provide for an adjustment to the payment for subsection (d) hospitals in each fiscal year so as appropriately to reflect the net amount described in clause (i).

"(6) The Secretary shall provide for publication in the Federal Register, on or before the September 1 before each fiscal year (beginning with fiscal year 1984), of a description of the methodology and data used in computing the adjusted DRG prospective payment rates under this subsection, including any adjustments required under subsection (e)(1)(B).

"(7) There shall be no administrative or judicial review under section 1878 or otherwise of—

> *"(A) the determination of the requirement, or the proportional amount, of any adjustment effected pursuant to subsection (e)(1), and*
>
> *"(B) the establishment of diagnosis-related groups, of the methodology for the classification of discharges within such groups, and of the appropriate weighting factors thereof under paragraph (4).*

"(e)(1)(A) For cost reporting periods of hospitals beginning in fiscal year 1984 or fiscal year 1985, the Secretary shall provide for such proportional adjustment in the applicable percentage increase

(otherwise applicable to the periods under subsection (b)(3)(B)) as may be necessary to assure that—

"(i) the aggregate payment amounts otherwise provided under subsection (d)(1)(A)(i)(I) for that fiscal year for operating costs of inpatient hospital services of hospitals (excluding payments made under section 1866(a)(1)(F)),

are not greater or less than—

"(ii) the target percentage (as defined in subsection (d)(1)(C)) of the payment amounts which would have been payable for such services for those same hospitals for that fiscal year under this section under the law as in effect before the date of the enactment of the Social Security Act Amendments of 1983 (excluding payments made under section 1866(a)(1)(F));

except that the adjustment made under this subparagraph shall apply only to subsection (d) hospitals and shall not apply for purposes of making computations under subsection (d)(2)(B)(ii) or subsection (d)(3)(A).

"(B) For discharges occurring in fiscal year 1984 or fiscal year 1985, the Secretary shall provide under subsections (d)(2)(F) and (d)(3)(C) for such equal proportional adjustment in each of the average standardized amounts otherwise computed for that fiscal year as may be necessary to assure that—

"(i) the aggregate payment amounts otherwise provided under subsection (d)(1)(A)(i)(II) and (d)(5) for that fiscal year for operating costs of inpatient hospital services of hospitals (excluding payments made under section 1866(a)(1)(F)),

are not greater or less than—

"(ii) the DRG percentage (as defined in subsection (d)(1)(C)) of the payment amounts which would have been payable for such services for those same hospitals for that fiscal year under this section under the law as in effect before the date of the enactment of the Social Security Act Amendments of 1983 (excluding payments made under section 1866(a)(1)(F)).

"(2) The Director of the Congressional Office of Technology Assessment (hereafter in this subsection referred to as the 'Director' and the 'Office', respectively) shall provide for appointment of a Prospective Payment Assessment Commission (hereafter in this subsection referred to as the 'Commission'), to be composed of independent experts selected by the Director. In addition to carrying out its functions under subsection (d)(4)(D), the Commission shall review the applicable percentage increase factor described in subsection (b)(3)(B) and make recommendations to the Secretary on the appropriate percentage change which should be effected for hospital inpatient discharges under subsections (b) and (d) for fiscal years beginning with fiscal year 1986. In making its recommendations, the Commission shall take into account changes in the hospital market-basket described in subsection (b)(3)(B), hospital productivity, technological and scientific advances, the quality of health care provided in hospitals (including the quality and skill level of professional nursing required to maintain quality care), and long-term cost-effectiveness in the provision of inpatient hospital services.

"(3) The Commission, not later than the April 1 before the beginning of each fiscal year (beginning with fiscal year 1986), shall report its recommendations to the Secretary on an appropriate

change factor which should be used (instead of the applicable percentage increase described in subsection (b)(3)(B)) for inpatient hospital services for discharges in that fiscal year.

"(4) Taking into consideration the recommendations of the Commission, the Secretary shall determine for each fiscal year (beginning with fiscal year 1986) the percentage change which will apply for purposes of this section as the applicable percentage increase (otherwise described in subsection (b)(3)(B)) for discharges in that fiscal year, and which will take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality.

"(5) The Secretary shall cause to have published for public comment in the Federal Register, not later than—

"(A) the June 1 before each fiscal year (beginning with fiscal year 1986), the Secretary's proposed determination under paragraph (4) for that fiscal year, and

"(B) the September 1 before such fiscal year after such consideration of public comment on the proposal as is feasible in the time available, the Secretary's final determination under such paragraph for that year.

The Secretary shall include in the publication referred to in subparagraph (A) for a fiscal year the report of the Commission's recommendations submitted under paragraph (3) for that fiscal year.

"(6)(A) The Commission shall consist of 15 individuals. Members of the Commission shall first be appointed no later than April 1, 1984, for a term of three years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than seven members expire in any one year.

"(B) The membership of the Commission shall provide expertise and experience in the provision and financing of health care, including but not limited to physicians and registered professional nurses, employers, third party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research, and individuals having expertise in the research and development of technological and scientific advances in health care. The Director shall seek nominations from a wide range of groups, including but not limited to—

"(i) national organizations representing physicians, including medical specialty organizations and registered professional nurses and other skilled health professionals;

"(ii) national organizations representing hospitals, including teaching hospitals;

"(iii) national organizations representing manufacturers of health care products; and

"(iv) national organizations representing the business community, health benefit programs, labor, and the elderly.

"(C) Subject to such review as the Office deems necessary to assure the efficient administration of the Commission, the Commission may—

"(i) employ and fix the compensation of such personnel (not to exceed 25) as may be necessary to carry out its duties;

"(ii) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(iii) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission;

"(iv) make advance, progress, and other payments which relate to the work of the Commission;

"(v) provide transportation and subsistence for persons serving without compensation; and

"(vi) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(D) While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and his regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission.

"(E) In order to identify medically appropriate patterns of health resources use in accordance with paragraph (2), the Commission shall collect and assess information on medical and surgical procedures and services, including information on regional variations of medical practice and lengths of hospitalization and on other patient-care data, giving special attention to treatment patterns for conditions which appear to involve excessively costly or inappropriate services not adding to the quality of care provided. In order to assess the safety, efficacy, and cost-effectiveness of new and existing medical and surgical procedures, the Commission shall, in coordination to the extent possible with the Secretary, collect and assess factual information, giving special attention to the needs of updating existing diagnosis-related groups, establishing new diagnosis-related groups, and making recommendations on relative weighting factors for such groups to reflect appropriate differences in resource consumption in delivering safe, efficacious, and cost-effective care. In collecting and assessing information, the Commission shall—

"(i) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this paragraph;

"(ii) carry out, or award grants or contracts for, original research and experimentation, including clinical research, where existing information is inadequate for the development of useful and valid guidelines by the Commission; and

"(iii) adopt procedures allowing any interested party to submit information with respect to medical and surgical procedures and services (including new practices, such as the use of new technologies and treatment modalities), which information the Commission shall consider in making reports and recommendations to the Secretary and Congress.

"(F) The Commission shall have access to such relevant information and data as may be available from appropriate Federal agencies and shall assure that its activities, especially the conduct of

original research and medical studies, are coordinated with the activities of Federal agencies.

"(G)(i) The Office shall report annually to the Congress on the functioning and progress of the Commission and on the status of the assessment of medical procedures and services by the Commission.

"(ii) The Office shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon its request.

"(iii) In order to carry out its duties under this paragraph, the Office is authorized to expend reasonable and necessary funds as mutually agreed upon by the Office and the Commission. The Office shall be reimbursed for such funds by the Commission from the appropriations made with respect to the Commission.

"(H) The Commission shall be subject to periodic audit by the General Accounting Office.

"(I)(i) There are authorized to be appropriate such sums as may be necessary to carry out the provisions of this paragraph.

"(ii) Eighty-five percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 15 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

"(f)(1) The Secretary shall maintain, for a period ending not earlier than September 30, 1988, a system for the reporting of costs of hospitals receiving payments computed under subsection (d).

"(2) If the Secretary determines, based upon information supplied by a utilization and quality control peer review organization under part B of title XI, that a hospital, in order to circumvent the payment method established under subsection (b) or (d) of this section, has taken an action that results in the admission of individuals entitled to benefits under part A unnecessarily, unnecessary multiple admissions of the same such individuals, or other inappropriate medical or other practices with respect to such individuals, the Secretary may—

"(A) deny payment (in whole or in part) under part A with respect to inpatient hospital services provided with respect to such an unnecessary admission (or subsequent admission of the same individual), or

"(B) require the hospital to take other corrective action necessary to prevent or correct the inappropriate practice.

"(3) The provisions of paragraphs (2), (3), and (4) of section 1862(d) shall apply to determinations under paragraph (2) of this subsection in the same manner as they apply to determinations made under section 1862(d)(1).

"(g)(1) If the Congress does not enact legislation, after the date of the enactment of this subsection and before October 1, 1986, respecting the payment under this title for capital-related costs for inpatient hospital services, no payment may be made under this title for capital-related costs of capital expenditures (as defined in section 1122(g) and except as provided in section 1122(j)) for inpatient hospital services in a State, which expenditures are obligated after September 30, 1986, unless the State has an agreement with the Secretary under section 1122(b) and under the agreement the State has recommended approval of the capital expenditures.

"(2) The Secretary shall provide that the amount which is allowable, with respect to reasonable costs of inpatient hospital services for which payment may be made under this title, for a return on equity capital for hospitals shall, for cost reporting periods beginning on or after the date of the enactment of this subsection, be equal to amounts otherwise allowable under regulations in effect on March 1, 1983, except that the rate of return to be recognized shall be equal to the average of the rates of interest, for each of the months any part of which is included in the reporting period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.".

(f) Section 1862(a)(1) of the Social Security Act is amended—

(1) by striking out "(B) or (C)" and inserting in lieu thereof "(B), (C), or (D)";

(2) by striking out "and" at the end of subparagraph (B);

(3) by striking out the semicolon at the end of subparagraph (C) and inserting in lieu thereof a comma and "and"; and

(4) by adding at the end thereof the following new subparagraph:

"(D) in the case of clinical care items and services provided with the concurrence of the Secretary and with respect to research and experimentation conducted by, or under contract with, the Prospective Payment Assessment Commission or the Secretary, which are not reasonable and necessary to carry out the purposes of section 1886(e)(6);".

(g) In determining whether a hospital is in an urban or rural area for purposes of section 1886(d) of the Social Security Act, the Secretary of Health and Human Services shall classify any hospital, located in New England as being located in an urban area if such hospital was classified as being located in an urban area under the Standard Metropolitan Statistical Area system of classification in effect in 1979.

CONFORMING AMENDMENTS

SEC. 602. (a) Section 1153(b)(2) of the Social Security Act is amended by adding at the end the following new subparagraph:

"(C) The twelve-month period referred to in subparagraph (A) shall be deemed to begin not later than October 1983.".

(b) Sections 1814(g) and 1835(e) of the Social Security Act are each amended by inserting "(or would be if section 1886 did not apply)" after "section 1861(v)(1)(D)".

(c) Section 1814(h)(2) of such Act is amended by striking out "the reasonable costs for such services" and inserting in lieu thereof "the amount that would be payable for such services under subsection (b) and section 1886".

(d)(1) The matter in section 1861(v)(1)(G)(i) of such Act following subclause (III) is amended by striking out "on the basis of the reasonable cost of" and inserting in lieu thereof "the amount otherwise payable under part A with respect to".

(2) Section 1861(v)(2)(A) of such Act is amended by striking out "an amount equal to the reasonable cost of" and inserting in lieu thereof "the amount that would be taken into account with respect to".

(3) Section 1861(v)(2)(B) of such Act is amended by striking out "the equivalent of the reasonable cost of".

(4) Section 1861(v)(3) of such Act is amended by striking out "the reasonable cost of such bed and board furnished in semiprivate accommodations (determined pursuant to paragraph (1))" and inserting in lieu thereof "the amount otherwise payable under this title for such bed and board furnished in semiprivate accommodations".

(e) Section 1862(a) of such Act is amended—

(1) by striking out "or" at the end of paragraph (12),

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(14) which are other than physicians' services (as defined in regulations specifically for purposes of this paragraph) and which are furnished to an individual who is an inpatient of a hospital by an entity other than the hospital, unless the services are furnished under arrangements (as defined in section 1861(w)(1)) with the entity made by the hospital.".

(f)(1) Section 1866(a)(1) of such Act is amended—

(A) by striking out "and" at the end of subparagraph (D),

(B) by striking out the period at the end of subparagraph (E), and

(C) by adding at the end the following new subparagraphs:

"(F) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (c) or (d) of section 1886, to maintain an agreement with a utilization and quality control peer review organization (if there is such an organization which has a contract with the Secretary under part B of title XI for the area in which the hospital is located) under which the organization will perform functions under that part with respect to the review of the validity of diagnostic information provided by such hospital, the completeness, adequacy, and quality of care provided, the appropriateness of admissions and discharges, and the appropriateness of care provided for which additional payments are sought under section 1886(d)(5), with respect to inpatient hospital services for which payment may be made under part A of this title (and for purposes of payment under this title, the cost of such agreement to the hospital shall be considered a cost incurred by such hospital in providing inpatient services under part A, and (i) shall be paid directly by the Secretary to such organization on behalf of such hospital in accordance with a rate per review established by the Secretary, (ii) shall be transferred from the Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, (iii) shall be not less than an amount which reflects the rates per review established in fiscal year 1982 for both direct and administrative costs (adjusted for inflation), and (iv) shall not be less in the aggregate for a fiscal year than the aggregate amount expended in fiscal year 1982 for direct and administrative costs (adjusted for inflation),

"(G) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (b) or

(d) of section 1886, not to charge any individual or any other person for inpatient hospital services for which such individual would be entitled to have payment made under part A but for a denial or reduction of payments under section 1886(f)(2), and

"(H) in the case of hospitals which provide inpatient hospital services for which payment may be made under this title, to have all items and services (other than physicians' services as defined in regulations for purposes of section 1862(a)(14)) (i) that are furnished to an individual who is an inpatient of the hospital, and (ii) for which the individual is entitled to have payment made under this title, furnished by the hospital or otherwise under arrangements (as defined in section 1861(w)(1)) made by the hospital.".

(2) The matter in section 1866(a)(2)(B)(ii) of such Act preceding subclause (I) is amended by inserting "and except with respect to inpatient hospital costs with respect to which amounts are payable under section 1886(d)" after "(except with respect to emergency services)".

(g) Section 1876(g) of such Act is amended by adding at the end the following:

"(4) A risk-sharing contract under this subsection may, at the option of an eligible organization, provide that the Secretary—

"(A) will reimburse hospitals either for payment amounts determined in accordance with section 1886, or for the reasonable cost (as determined under section 1861(v)) or as applicable, of inpatient hospital services furnished to individuals enrolled with such organization pursuant to subsection (d), and

"(B) will deduct the amount of such reimbursement for payment which would otherwise be made to such organization.".

(h)(1) Section 1878(a) of such Act is amended—

(A) by inserting "and (except as provided in subsection (g)(2)) any hospital which receives payments in amounts computed under section 1886(d) and which has submitted such reports within such time as the Secretary may require in order to make payment under such section may obtain a hearing with respect to such payment by the Board" after "subsection (h)" in the matter before paragraph (1),

(B) by inserting "(i)" after "(A)" in paragraph (1)(A),

(C) by inserting "or" at the end of paragraph (1)(A) and by adding after such paragraph the following new clause:

"(ii) is dissatisfied with a final determination of the Secretary as to the amount of the payment under section 1886(d),", and

(D) by striking out "(1)(A)" in paragraph (3) and inserting in lieu thereof "(1)(A)(i), or with respect to appeals under paragraph (1)(A)(ii), 180 days after notice of the Secretary's final determination,".

(2)(A) The last sentence of section 1878(f)(1) of the Social Security Act is amended by inserting "(or, in an action brought jointly by several providers, the judicial district in which the greatest number of such providers are located) after "the judicial district in which the provider is located".

(B) Section 1878(f)(1) of such Act is further amended by adding at the end thereof the following new sentence: "Any appeal to the

Board or action for judicial review by providers which are under common ownership or control must be brought by such providers as a group with respect to any matter involving an issue common to such providers.".

(3) Section 1878(g) of such Act is amended by inserting "(1)" after "(g)" and by adding at the end the following new paragraph:

"(2) The determinations and other decisions described in section 1886(d)(7) shall not be reviewed by the Board or by any court pursuant to an action brought under subsection (f) or otherwise.".

(4) The third sentence of section 1878(h) of such Act is amended by striking out "cost reimbursement" and inserting in lieu thereof "payment of providers of services".

(i) The first sentence of section 1881(b)(2)(A) of such Act is amended by inserting "or section 1886 (if applicable)" after "section 1861(v)".

(j) Section 1887(a)(1)(B) of such Act is amended by inserting "or on the bases described in section 1886" after "on a reasonable cost basis".

(k) The Secretary of Health and Human Services may, for any cost reporting period beginning prior to October 1, 1986, waive the requirements of sections 1862(a)(14) and 1866(a)(1)(H) of the Social Security Act in the case of a hospital which has followed a practice, since prior to October 1, 1982, of allowing direct billing under part B of title XVIII of such Act for services (other than physician services) so extensively, that immediate compliance with those requirements would threaten the stability of patient care. Any such waiver shall provide that such billing may continue to be made under part B of such title but that the payments to such hospital under part A of such title shall be reduced by the amount of the billings for such services under part B of such title. If such a waiver is granted, at the end of the waiver period the Secretary may provide for such methods of payments under part A as is appropriate, given the organizational structure of the institution.

(l) Effective October 1, 1984, section 1866(a)(1) of the Social Security Act, as amended by subsection (f)(1) of this section, is further amended—

(1) by striking out "(if there is such an organization" in subparagraph (F) and insert in lieu thereof "(with an organization", and

(2) by adding at the end the following new sentence: "In the case of a hospital which has an agreement in effect with an organization described in subparagraph (F), which organization's contract with the Secretary under part B of title XI terminates on or after October 1, 1984, the hospital shall not be determined to be out of compliance with the requirement of such subparagraph during the six month period beginning on the date of the termination of that contract.".

REPORTS, EXPERIMENTS, AND DEMONSTRATION PROJECTS

SEC. 603. (a)(1) The Secretary of Health and Human Services (hereinafter in this title referred to as the "Secretary") shall study, develop, and report to the Congress within 18 months after the date of the enactment of this Act on the method and proposals for legis-

lation by which capital-related costs, such as return on net equity, associated with inpatient hospital services can be included within the prospective payment amounts computed under section 1886(d) of the Social Security Act.

(2)(A) The Secretary shall study and report annually to the Congress at the end of each year (beginning with 1984 and ending with 1987) on the impact, of the payment methodology under section 1886(d) of the Social Security Act during the previous year, classes of hospitals, beneficiaries, and other payors for inpatient hospital services, and other providers, and, in particular, on the impact of computing DRG prospective payment rates by census division, rather than exclusively on a national basis. Each such report shall include such recommendations for such changes in legislation as the Secretary deems appropriate.

(B) During fiscal year 1984, the Secretary shall begin the collection of data necessary to compute the amount of physician charges attributable, by diagnosis-related groups, to physicians' services furnished to inpatients of hospitals whose discharges are classified within those groups. The Secretary shall include, in a report to Congress in 1985, recommendations on the advisability and feasibility of providing for determining the amount of the payments for physicians' services furnished to hospital inpatients based on the DRG type classification of the discharges of those inpatients, and legislative recommendations thereon.

(C) In the annual report to Congress under subparagraph (A) for 1985, the Secretary shall include the results of studies on—

(i) the feasibility and impact of eliminating or phasing out separate urban and rural DRG prospective payment rates under paragraph (3) of section 1886(d) of the Social Security Act;

(ii) whether and the method under which hospitals, not paid based on amounts determined under such section, can be paid for inpatient hospital services on a prospective basis as under such section;

(iii) the appropriateness of the factors used under paragraph (5)(A) of such section to compensate hospitals for the additional expenses of outlier cases, and the application of severity of illness, intensity of care, or other modifications to the diagnosis-related groups, and the advisability and feasibility of providing for such modifications;

(iv) the feasibility and desirability of applying the payment methodology under such section to payment by all payors for inpatient hospital services; and

(v) the impact of such section on hospital admissions and the feasibility of making a volume adjustment in the DRG prospective payment rates or requiring preadmission certification in order to minimize the incentive to increase admissions.

Such report shall specifically include, with respect to the item described in clause (iv), consideration of the extent of cost-shifting to non-Federal payors and the impact of such cost-shifting on health insurance costs and premiums borne by employers and employees.

(D) In the annual report to Congress under subparagraph (A) for 1986, the Secretary shall include the results of a study examining the overall impact of State systems of hospital payment (either approved under section 1886(c) of the Social Security Act or under a

waiver approved under section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972), particularly assessing such systems' impact not only on the medicare program but also on the medicaid program, on payments and premiums under private health insurance plans, and on tax expenditures.

(3)(A) The Secretary shall complete a study and make legislative recommendations to the Congress with respect to an equitable method of reimbursing sole community hospitals which takes into account their unique vulnerability to substantial variations in occupancy.

(B) In addition, the Secretary shall examine ways to coordinate an information transfer between parts A and B of title XVIII of the Social Security Act, particularly with respect to those cases where a denial of coverage is made under part A of such title, and no adjustment is made in the reimbursement to the admitting physician or physicians.

(C) The Secretary shall also report on the appropriate treatment of uncompensated care costs, and adjustments that might be appropriate for large teaching hospitals located in rural areas.

(D) The Secretary shall also report on the advisability of having hospitals make available information on the cost of care to patients financed by both public programs and private payors.

(E) The studies and reports described in this paragraph shall be completed and submitted not later than April 1, 1985.

(4) The Secretary shall complete a study and make recommendations to the Congress, before April 1, 1984, with respect to a method for including hospitals located outside of the fifty States and the District of Columbia under a prospective payment system.

(b)(1) Except as provided in paragraph (2), the amendments made by this title shall not affect the authority of the Secretary to develop, carry out, or continue experiments and demonstration projects.

(2) The Secretary shall provide that, upon the request of a State which has a demonstration project (or upon the request of a party to demonstration project agreement), for payment of hospitals under title XVIII of the Social Security Act approved under section 402(a) of the Social Security Amendments of 1967 or section 222(a) of the Social Security Amendments of 1972, which (A) is in effect as of March 1, 1983, and (B) was entered into after August 1982, the terms of the demonstration agreement shall be modified so that the demonstration project is not required to maintain the rate of increase in medicare hospital costs in that State below the national rate of increase in medicare hospital costs.

(c) The Secretary shall approve, with appropriate terms and conditions as defined by the Secretary, within 30 days after the date of enactment of this Act—

> *(1) the risk-sharing application of On Lok Senior Health Services (according to terms and conditions as specified by the Secretary), dated July 2, 1982, for waivers, pursuant to section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967, of certain requirements of title XVIII of the Social Security Act over a period of 36 months in order to carry out a long-term care demonstration project, and*

(2) the application of the Department of Health Services, State of California, dated November 1, 1982, pursuant to section 1115 of the Social Security Act, for the waiver of certain requirements of title XIX of such Act over a period of 36 months in order to carry out a demonstration project for capitated reimbursement for comprehensive long-term care services involving On Lok Senior Health Services.

(d) The Secretary shall conduct demonstrations with hospitals in areas with critical shortages of skilled nursing facilities to study the feasibility of providing alternative systems of care or methods of payment.

EFFECTIVE DATES

SEC. 604. (a)(1) Except as provided in section 602(l) and in paragraph (2), the amendments made by the preceding provisions of this title apply to items and services furnished by or under arrangements with a hospital beginning with its first cost reporting period that begins on or after October 1, 1983. A change in a hospital's cost reporting period that has been made after November 1982 shall be recognized for purposes of this section only if the Secretary finds good cause for that change.

(2) Section 1866(a)(1)(F) of the Social Security Act (as added by section 602(f)(1)(C) of this title), section 1862(a)(14) (as added by section 602(e)(3) of this title) and sections 1886(a)(1) (G) and (H) of such Act (as added by section 602(f)(1)(C) of this title) take effect on October 1, 1983.

(b) The Secretary shall make an appropriate reduction in the payment amount under section 1886(d) of the Social Security Act (as amended by this title) for any discharge, if the admission has occurred before a hospital's first cost reporting period that begins after September 1983, to take into account amounts payable under title XVIII of that Act (as in effect before the date of the enactment of this Act) for items and services furnished before that period.

(c)(1) The Secretary shall cause to be published in the Federal Register a notice of the interim final DRG prospective payment rates established under subsection (d) of section 1886 of the Social Security Act (as amended by this title) no later than September 1, 1983, and allow for a period of public comment thereon. Payment on the basis of prospective rates shall become effective on October 1, 1983, without the necessity for consideration of comments received, but the Secretary shall, by notice published in the Federal Register, affirm or modify the amounts by December 31, 1983, after considering those comments.

(2) A modification under paragraph (1) that reduces a prospective payment rate shall apply only to discharges occurring after 30 days after the date the notice of the modification is published in the Federal Register.

(3) Rules to implement subsection (d) of section 1886 of the Social Security Act (as so amended) shall be established in accordance with the procedure described in this subsection.

DELAY IN PROVISION RELATING TO HOSPITAL-BASED SKILLED NURSING FACILITIES

SEC. 605. (a) Section 102 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "October 1, 1982" and inserting in lieu thereof "October 1, 1983".

(b) The Secretary of Health and Human Services shall, prior to December 31, 1983, complete a study and report to the Congress with respect to (1) the effect which the implementation of section 102 of the Tax Equity and Fiscal Responsibility Act of 1982 would have on hospital-based skilled nursing facilities, given the differences (if any) in the patient populations served by such facilities and by community-based skilled nursing facilities and (2) the impact on skilled nursing facilities of hospital prospective payment systems, and recommendations concerning payment of skilled nursing facilities.

SHIFT IN MEDICARE PREMIUMS TO COINCIDE WITH COST-OF-LIVING INCREASE

SEC. 606. (a) Section 1839 of the Social Security Act is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a)(1) The Secretary shall, during September of 1983 and of each year thereafter, determine the monthly actuarial rate for enrollees age 65 and over which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to those enrollees who have attained retirement age will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rate, the Secretary shall include an appropriate amount for a contingency margin.

"(2) The monthly premium of each individual enrolled under this part for each month after December 1983 shall, except as provided in subsections (b) and (e), be the amount determined under paragraph (3).

"(3) The Secretary shall, during September of 1983 and of each year thereafter, determine and promulgate the monthly premium applicable for individuals enrolled under this part for the succeeding calendar year. The monthly premium shall (except as otherwise provided in subsection (e)) be equal to the smaller of—

"(A) the monthly actuarial rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that calendar year, or

"(B) the monthly premium rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of $900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on November 1 of the year before the year of the promulgation. He shall increase the monthly premium rate

by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals for the following November 1.

Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium for any period, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for enrollees who have attained retirement age as provided in paragraph (1) and the derivation of the dollar amounts specified in this paragraph.

"(4) The Secretary shall also, during September of 1983 and of each year thereafter, determine the monthly actuarial rate for disabled enrollees under age 65 which shall be applicable for the succeeding calendar year. Such actuarial rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees. In calculating the monthly actuarial rate under this paragraph, the Secretary shall include an appropriate amount for a contingency margin.".

(2) Subsections (d), (e), (f), and (g) of section 1839 of such Act are redesignated as subsections (b), (c), (d), and (e), respectively.

(3)(A) Section 1839(b) of such Act (as so redesignated) is amended by striking out "subsection (b), (c), or (g)" and inserting in lieu thereof "subsection (a) or (e)".

(B) Section 1839(d) of such Act (as so redesignated) is amended by striking out "purposes of subsection (c)" and inserting in lieu thereof "purposes of subsection (b)".

(C) Section 1839(e) of such Act (as so redesignated) is amended by striking out "subsection (c)" and "subsection (c)(1)" and by inserting in lieu thereof "subsection (a)" and "subsection (a)(1)", respectively.

(D) Section 1818(c) of such Act is amended by striking out "subsection (c) of section 1839" and inserting in lieu thereof "subsection (a) of section 1839".

(E) Section 1843(d)(1) of such Act is amended by striking out "without any increase under subsection (c) thereof" and inserting in lieu thereof "without any increase under subsection (b) thereof".

(F) Section 1844(a)(1)(A)(i) of such Act is amended—

(i) by striking out "1839(c)(1)" and inserting in lieu thereof "1839(a)(1)"; and

(ii) by striking out "1839(c)(3) or 1839(g)" and inserting in lieu thereof "1839(a)(3) or 1839(e)".

(G) Section 1844(a)(1)(B)(i) of such Act is amended—

(i) by striking out "1839(c)(4)" and inserting in lieu thereof "1839(a)(4)"; and

(ii) by striking out "1839(c)(3) or 1839(g)" and inserting in lieu thereof "1839(a)(3) or 1839(e)".

(H) Section 1876(a)(5) of such Act is amended—

(i) in subparagraph (A)(ii) by striking out "1839(c)(1)" and inserting in lieu thereof "1839(a)(1)"; and

(ii) in subparagraph (B)(ii), by striking out "1839(c)(4)" and inserting in lieu thereof "1839(a)(4)".

(b) Section 1818(d)(2) of such Act is amended—

(1) by striking out "during the last calendar quarter of each year, beginning in 1973," in the first sentence and inserting in lieu thereof "during the next to last calendar quarter of each year";

(2) by striking out "the 12-month period commencing July 1 of the next year" in the first sentence and inserting in lieu thereof "the following calendar year"; and

(3) by striking out "for such next year" in the second sentence and inserting in lieu thereof "for that following calendar year".

(c) The amendments made by this section shall apply to premiums for months beginning with January 1984, and for months after June 1983 and before January 1984—

(1) the monthly premiums under part A and under part B of title XVIII of the Social Security Act for individuals enrolled under each respective part shall be the monthly premium under that part for the month of June 1983, and

(2) the amount of the Government contributions under section 1844(a)(1) of such Act shall be computed on the basis of the actuarilly adequate rate which would have been in effect under part B of title XVIII of such Act for such months without regard to the amendments made by this section, but using the amount of the premium in effect for the month of June 1983.

SECTION 1122 AMENDMENTS

SEC. 607. (a) Section 1122(c) of the Social Security Act is amended by striking out "the Federal Hospital Insurance Trust Fund" and inserting "the general fund in the Treasury".

(b)(1) Section 1122(g) of such Act is amended—

(A) by striking out "$100,000" the first place it appears and inserting in lieu thereof "$600,000 (or such lesser amount as the State may establish)", and

(B) by striking out "$100,000" the second place it appears and inserting in lieu thereof "the dollar amount specified in clause (1)".

(2) Section 1861(z)(2) of such Act is amended by striking out "$100,000" and inserting in lieu thereof "$600,000 (or such lesser amount as may be established by the State under section 1122(g)(1) in which the hospital is located)".

(c) Section 1122 of such Act is amended by adding at the end thereof the following:

"(j) A capital expenditure made by or on behalf of a health care facility shall not be subject to review pursuant to this section if 75 percent of the patients who can reasonably be expected to use the service with respect to which the capital expenditure is made will be individuals enrolled in an eligible organization as defined in section 1876(b), and if the Secretary determines that such capital expenditure is for services and facilities which are needed by such organization in order to operate efficiently and economically and

which are not otherwise readily accessible to such organization because—

"(1) the facilities do not provide common services at the same site (as usually provided by the organization),

"(2) the facilities are not available under a contract of reasonable duration,

"(3) full and equal medical staff privileges in the facilities are not available,

"(4) arrangements with such facilities are not administratively feasible, or

"(5) the purchase of such services is more costly than if the organization provided the services directly.".

(d) Section 1861(z)(2) of such Act is amended by inserting "(A)" after "(z)" and by adding at the end thereof the following new subparagraph:

"(B) provides that such plan is submitted to the agency designated under section 1122(b), or if no such agency is designated, to the appropriate health planning agency in the State (but this subparagraph shall not apply in the case of a facility exempt from review under section 1122 by reason of section 1122(j));".

And the Senate agree to the same.

DAN ROSTENKOWSKI,
J. J. PICKLE,
ANDREW JACOBS, Jr.,
HAROLD FORD,
JAMES M. SHANNON,
BARBER B. CONABLE, Jr.,
Managers on the Part of the House.

BOB DOLE,
JOHN DANFORTH,
JOHN H. CHAFEE,
JOHN HEINZ,
LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1900) to assure the solvency of the Social Security Trust Funds, to reform the medicare reimbursement of hospitals, to extend the Federal supplemental compensation program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

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SOCIAL SECURITY SYSTEM

1. EXTENSION OF COVERAGE

A. FEDERAL EMPLOYEES

Present law

Permanent civilian employees of the Federal government are not covered by social security (OASDI). (Part-time temporary civilian employees and members of the armed forces are covered by social security.) By far the greatest number of Federal employees not covered by social security (2.7 million) participate in the Civil Service Retirement System (CSRS) on a mandatory basis. Legislative branch employees are not covered by social security, and have the option of not participating in CSRS. Members of Congress, the President and the Vice-President are not covered under social security. As of January 1, 1983, Federal employees are covered under the medicare program and pay the medicare portion of the social security payroll tax.

Presently, the compensation paid to Federal judges—either in Senior (or inactive) status or in retirement—is not considered wages and thus is not subject to social security taxes nor is it considered for purposes of the retirement test.

House bill

Provides for coverage under social security of the following groups: (1) all Federal employees hired on or after January 1, 1984, including those with previous periods of Federal Service if the break in Federal service lasted at least 365 days; (2) legislative branch employees on the same basis, as well as current employees of the legislative branch who are not participating in the Civil Service Retirement System as of December 31, 1983; (3) all Members of Congress, the President and the Vice President effective January 1, 1984; (4) all sitting Federal judges, and all executive level and senior executive service political appointees, as of January 1, 1984. Federal judicial salaries would be reported as wages for social security earnings test and payroll tax purposes.

Senate amendment

Would cover Federal employees hired on or after January 1, 1984, or upon the enactment of a supplemental Civil Service Retirement System, whichever is later. Members of Congress, the President, Vice President, and the Commissioner of Social Security would be covered as of January 1, 1984.

The provision also states that "Nothing in this Act shall reduce the accrued entitlement to future benefits under the Federal retirement program system of current and retired Federal employees and their families. The full faith and credit of the United States Government is pledged hereby in support of the payment of said accrued entitlements."

Conference agreement

The conference agreement follows the House bill, but also includes the Senate provision's statement "Nothing in this Act shall reduce the accrued entitlement that to future benefits under the Federal retirement program system of current and retired Federal employees and their families."

I. PROVISIONS AFFECTING THE FINANCING OF THE SOCIAL SECURITY SYSTEM

B. EMPLOYEES OF NONPROFIT ORGANIZATIONS

Present law

Participation in the social security system is optional for nonprofit organizations (charitable, religious, and educational). Most such organizations have chosen to participate, but about 15 percent of employees of nonprofit organizations are presently not covered. A nonprofit organization which has elected to participate can file to withdraw from social security after it has been in the system for 8 years, and termination is effective two years after the end of the calendar quarter in which the notice was filed.

House bill

Extends social security coverage on a mandatory basis to all employees of nonprofit organizations as of January 1, 1984. (Terminations of coverage would not be permitted on or after March 31, 1983.) Nonprofit employees age 55 or older affected by this provision would be deemed to be fully insured for social security benefits after acquiring a given number of quarters of coverage, according to the following sliding scale:

If on January 1, 1984, the person is—	The number of quarters needed is—
Age 60 or over	6
Age 59	8
Age 58	12
Age 57	16
Age 55–56	20

Senate amendment

Similar to House bill, except that terminations would not be permitted after enactment. Also, does not include special provision deeming persons to be fully insured under liberalized quarter-of-coverage requirements.

Conference agreement

The Conference agreement follows the House bill.

2. TERMINATION OF COVERAGE BY STATE AND LOCAL GOVERNMENTS

Present law

Participation in social security is optional for State and local governments. Once a government has chosen to join social security, it may withdraw, after 5 years of coverage, by providing the Federal government with two years advance notice of its intent to withdraw. A notice of termination becomes effective at the end of the calendar year two years after the notice is filed. Governments that have withdrawn are not allowed to rejoin. (About 70 percent of all State and local government employees are presently covered by social security.)

House bill

Prohibits State and local governments from terminating coverage for their employees if the termination has not taken effect by the date legislation is enacted. In addition, allows State and local governments which have withdrawn from the social security system to voluntarily rejoin. Once having rejoined, the governmental entity would be precluded from terminating coverage.

Senate amendment

Same as House bill.

3. WINDFALL BENEFITS FOR PERSONS WITH PENSIONS FROM NONCOVERED EMPLOYMENT

Present law

Social security benefits are determined through a formula based on average lifetime earnings in jobs covered by social security. The benefit formula is weighted so that persons with low average lifetime earnings receive a proportionally higher rate of return on their contributions to social security than workers with relatively high average lifetime earnings.

Workers with short periods of covered work also receive this advantage, because their few years of earnings are averaged over a 35-year period to determine their average monthly covered earnings on which the benefit is based.

This high rate of return for persons who have spent a short period of time in covered employment is what is often characterized as a "windfall" benefit.

House bill

(1) Applies a different benefit formula to workers who are eligible for a pension based wholly or in part on noncovered employment. Under the current formula, benefits are 90% of the first $254 of average monthly earnings, 32% of earnings from $254 to $1,538, and 15% of earnings above $1,538. The new formula applicable to those with pensions from noncovered employment would substitute 61% for the 90% factor. (2) Provides a guarantee that the resulting reduction in the worker's social security benefit cannot be more than one-half the amount of the noncovered pension. (3) This provision will be applicable to persons reaching age 60 after December 31, 1983.

Senate amendment

Similar to House provision, except substitutes a 32% factor in benefit formula, phased in over a 5-year period as follows:

Year of first eligibility under OASDI:	*First factor in formula (percent)*
1984	78.4
1985	66.8
1986	55.2
1987	43.6
1988 and after	32.0

Provides a guarantee that the resulting reduction in the worker's social security benefit cannot be more than one-third of the portion of the worker's pension based on service which was not covered.

Provides further a guarantee that persons with 30 years or more of covered service would not be affected. For persons with less than 30 but more than 24 years of substantial social security employment, the 90% factor in the benefit formula would be reduced by 10 percentage points for each year below 30 years of covered employment. This would not reduce benefits by more than the regular windfall provision, however. (A year of substantial employment would be a year in which covered earnings were at least 25 percent of the wage base. For years after 1977, the base used would be the 1977 base with adjustments for increased earnings after that date.)

The provision provides for periodically recomputing the offset based on changes in the pension rate. The provision also provides that pensions based on noncovered employment of less than a year would not be subject to the offset.

The provision would be effective on January 1, 1984, for retired or disabled workers who first become eligible for a noncovered pension and for social security after 1983.

Conference agreement

The conference agreement follows the House bill with the following amendments:

1. Substitutes 40 percent as the first bracket formula amount.
2. Phases in this reduction over a 5-year period: 80% in the first year, 70% in the second year, 60% in the third year, 50% in the fourth year, and fully effective in the fifth year.
3. Exempts the following groups:
   a. all current employees newly covered by the bill, i.e. those current Federal employees covered by the bill, and nonprofit employees except those employees whose past employment for a nonprofit organization had been covered, but whose employment for that organization was not covered on December 31, 1983;
   b. those with service which was not covered until 1957;
   c. those with 30 years or more of covered work; in addition, for persons with less than 30 but more than 24 years of substantial social security employment, the 90% factor in the benefit formula would be reduced by 10 percentage points for each year below 30 years of covered employment. (Senate provision); and
   d. those with railroad retirement pensions.
4. Amends the effective date to apply to those first eligible for social security benefits and for government pensions after 1985.

4. DELAY COST-OF-LIVING ADJUSTMENT

Present law

(a) Social security benefits are adjusted automatically every June (July check) to reflect increases in the consumer price index. This cost-of-living adjustment is measured from the average CPI of the first quarter of the previous year in which a benefit increase was provided to the average of the first quarter of the current year. No cost-of-living increase is provided in any year in which the increase in the CPI is less than 3 percent.

House bill

Delays the June 1983 cost-of-living adjustment until December (January 1984 check), and provides all subsequent cost-of-living adjustments in December (January checks). This adjustment would be based on the CPI for the first quarter of 1983 over that for the first quarter of 1982. All subsequent adjustments would be based on the CPI increase from the third quarter of the last year in which a cost-of-living adjustment was provided to the third quarter of the current year. For the December 1983 adjustment only, the 3 percent trigger is waived.

Senate amendment

Same as House bill. (A floor amendment also provides that the OASDI COLA delay be accompanied by a corresponding delay in a 1982 Reconciliation Act provision to round down certain veterans' pensions.)

Conference agreement

The conference agreement follows the Senate Amendment.

(b) The medicare monthly premium for part B physician coverage increases each July 1. (For those people receiving social security cash benefits, the premium is deducted from their checks.)

House bill

Also, postpones from July 1, 1983, to January 1, 1984, and to each January thereafter, the effective date of increases in medicare premiums to coincide with the proposed delay in the cost-of-living increases in social security cash benefit payments. For the six-month period from July 1, 1983 to January 1, 1984, the general revenue contribution would replace the lost premium revenue.

Senate amendment

Similar provision except that the general revenue contribution would not replace lost premium revenue.

Conference agreement

The conference agreement follows the House bill.

5. TAXATION OF SOCIAL SECURITY (OASDI) BENEFITS FOR HIGHER-INCOME PERSONS

Present law

Social security benefits and railroad retirement benefits are excluded from gross income for purposes of the Federal income tax.

House bill

Beginning in 1984, a portion of social security and tier I railroad retirement benefits would be included in taxable income for taxpayers whose adjusted gross income combined with 50 percent of their benefits exceeds a base amount. The base amount would be $25,000 for an individual, $32,000 for a married couple filing a joint return and zero for married persons filing separate returns. The amount of benefits that could be included in taxable income would be the lesser of one-half of benefits or one-half of the excess of the taxpayers' combined income (AGI + one-half of benefits) over the base amount.

The proceeds from the taxation of benefits, as estimated by the Treasury Department, would be transferred to the appropriate trust funds at first of quarter. An annual report from the Secretary of the Treasury concerning the transfers would be required.

Special rules would be provided to adjust for repayments by individuals of benefits previously received and subsequently determined to be overpayments. Special rules also would be provided for attributing appropriate portions of lump-sum benefit payments to the years for which they had been paid. Benefits subject to tax would include any workmen's compensation receipt of which caused a reduction in disability benefits. (Proceeds from the taxation of these benefits would be deposited in either the social security or railroad retirement account.)

Annual information returns would be filed by the Social Security Administration and the Railroad Retirement Board with the IRS and furnished to individual beneficiaries.

The 50 percent of social security benefits received by non-resident aliens would be subject to the 30 percent withholding tax (or a lower rate if so fixed by treaty) applicable to periodic payments made to such individuals under current law. (The IRS would be authorized to disclose to SSA and RRB certain tax return information for purposes of administering this provision.)

Senate amendment

Same as House bill, except that interest on tax-exempt bonds is added to adjusted gross income for the purpose of determining whether an individual's income exceeds the base amount above which a portion of benefits would be subject to tax; transfers to trust funds are made in the middle of the quarter; and that benefits subject to tax do not include certain worker's compensation benefits.

Conference agreement

The conference agreement follows the House bill on timing of transfers to the trust funds and treatment of certain worker's compensation benefits, and the Senate Amendment concerning tax exempt interest.

6. 1984–90 SOCIAL SECURITY TAX RATES AND 1984 CREDIT

A. FICA TAX RATES

Present law

Several increases in payroll tax rates are already scheduled to take effect between 1984 and 1990 as indicated below:

	Employer-Employee Rate (Each)		
	OASDI	HI	OASDI–HI
1984	5.4	1.30	6.70
1985	5.7	1.35	7.05
1986	5.7	1.45	7.15
1987	5.7	1.45	7.15
1988	5.7	1.45	7.15
1989	5.7	1.45	7.15
1990	6.2	1.45	7.65

House bill

Advances the payroll tax increase scheduled for 1985 to 1984 and part of the increase scheduled for 1990 to 1988, as indicated below:

	Employer-Employee Rate (Each)		
	OASDI	HI	OASDI-HI
1984	5.70	1.30	7.00
1985	5.70	1.35	7.05
1986	5.70	1.45	7.15
1987	5.70	1.45	7.15
1988	6.06	1.45	7.51
1989	6.06	1.45	7.51
1990	6.20	1.45	7.65

Senate amendment

Same as House bill.

B. TAX CREDIT FOR 1984 EMPLOYEE FICA TAXES

Present law

No deduction or credit is available for employee FICA taxes.

House bill

A credit of 0.3% of wages would be allowed against 1984 employee FICA taxes to reduce the net FICA rate to 6.70%. Appropriations to Trust Funds would be based on a 7.00% rate. Employee's annual withholding statements (form W-2) would indicate the net amount of FICA tax (i.e., the 6.7% of taxable wages actually deducted from their paychecks).

Senate amendment

Same as House bill except that employee's annual wage statements (Form W-2) would indicate both the gross FICA tax (7.0% of taxable wages) and the FICA credit (0.3% of taxable wages).

Conference agreement

The conference agreement follows the House bill.

C. 1984 EMPLOYER FICA TAX CREDIT

Present law

No deduction or credit is available for employer FICA taxes.

House bill

No provision.

Senate amendment

Employers who employ no more than 5 employees at any time during 1984 would be allowed a credit against FICA of 0.3% of taxable wages paid during that year. The credit would be limited to $300 per employer. All trades or businesses under common control would be considered to be one employer for the purpose of determining the number of employees.

Conference agreement

The conference agreement follows the House bill.

D. TIER I RAILROAD RETIREMENT TAXES

Present law

The rates of the Tier I railroad retirement taxes are the same as the rates of the corresponding FICA taxes.

House bill

Conforming changes would be made in Tier I railroad retirement tax rates and the credit against 1984 employee taxes would be allowed against employee railroad taxes.

Senate amendment

Same as House bill.

7. TAX ON SELF-EMPLOYMENT INCOME

Present law

The Self-Employment Contributions Act (SECA) imposes two taxes (OASDI and HI) on self-employed individuals. Currently, self-employed persons pay an OASDI tax at a rate approximately equal to 75 percent of the combined employer-employee rate and an HI tax at a rate that is 50 percent of the combined employer-employee rate.

No deduction or credit is available for SECA taxes.

House bill

Beginning in 1984, the OASDHI rates for self-employed persons would be equal to the combined employer-employee OASDHI rate.

For 1984, self-employed persons would be allowed a credit (comparable to the credit allowed employers against the FICA tax) against SECA tax equal to 0.3 percent of net self-employment income. In addition, beginning in 1984, self-employed persons would be entitled to a permanent credit against SECA tax For 1984-87, the amount of the credit would be 1.8 percent of net self-employment income. For 1988 and subsequent years, the credit would be 1.9 percent. the SECA tax credit may be directly taken into account in computing SECA liability for a taxable year and estimated tax payments for that year.

Appropriations to the trust funds would be based on the full SECA tax rates without regard to the credit allowed against such taxes.

Senate amendment

Same as House bill, except that the total credit rate would be 2.9 percent of self-employment income in 1984, 2.5 percent in 1985, 2.2 percent in 1986, 2.1 percent in 1987, 1988, and 1989, and 2.3 percent in 1990 and thereafter.

Conference agreement

The Conference agreement provides that:

a. The SECA credits for 1984 through 1989 would be as follows:
    1984: 2.7 percent.
    1985: 2.3 percent.
    1986-89: 2.0 percent.

b. Effective in 1990 and thereafter, the credit would terminate and be replaced with a system designed to achieve parity between employees and the self-employed. Under this system:

1. The base of the self-employment tax would be adjusted downward to reflect the fact that employees do not pay FICA tax on the value of the employer's FICA tax.
2. A deduction would be allowed for income tax purposes, for half of SECA Liability, to allow for the fact that employees do not pay income tax on the value of the employer's FICA tax.

8. CREDIT FOR THE ELDERLY AND DISABILITY INCOME EXCLUSION

A. CREDIT FOR THE ELDERLY

Present law

1. *Eligible individuals and credit rate.*—Individuals age 65 or over, or under 65 and with income from a public retirement system, are eligible for a credit equal to 15 percent of a base amount.

2. *Base amount.*—The initial amount of the base is:

$2,500—married with one spouse eligible or unmarried.
$3,750—married, joint return, both spouses eligible.
$1,875—married filing separately.

For individuals under age 65, the initial amount is limited to income from a public retirement system.

The initial amount is reduced by:

1. Pensions or annuities received under Social Security, Railroad Retirement, and certain other pensions and annuities otherwise excluded from gross income, and
2. One-half of the excess of adjusted gross income over:
    $7,500—single returns.
    $10,000—married, joint return.
    $5,000—married, separate return.

This reduction does not apply to individuals under age 65. Instead, the initial amount is reduced by certain amounts of earned income.

House bill

1. *Eligible individuals and credit rate.*—Same as present law, except that individuals under age 65 are eligible only if they retired with a permanent and total disability and have disability income from a public or private employer on account of that disability.

2. *Base amount.*—The initial base amount is:

$5,000—married with one spouse eligible or unmarried.
$7,500—married, joint return, both spouses eligible.
$3,750—married filing separately.

For individuals under age 65, the initial amount is limited to disability income.

1. Pensions or annuities received under social security, Railroad Retirement, and certain other pensions and annuities otherwise excluded from gross income (as under present law). In addition, social security and railroad disability benefits also reduce the initial amount.

2. One-half of adjusted gross income over:
   $7,500—single returns.
   $10,000—married, joint return,
   $5,000—married, separate return.

The same rules for reducing the initial amount would apply to all eligible individuals.

Conference agreement

The conference agreement follows the House bill with technical amendment.

B. DISABILITY INCOME EXCLUSION

Present law

Amounts received under an employer's disability income plan generally are includible in gross income to the extent attributable to employer contributions. However, permanently and totally disabled individuals who have retired on disability and are under 65 may exclude such income within certain limits. The excluded amount is limited to $100 per week and is reduced by the excess of adjusted gross income over $15,000.

House bill

The disability income exclusion is repealed. Affected individuals are made eligible for the credit for elderly and disabled persons to the extent of disability income (see above).

Effective date.—The provision applies to taxable years beginning after December 31, 1983.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

9. REALLOCATION OF OASI AND DI TRUST FUNDS

Present law

The OASDI tax rate is allocated as indicated below:

[Percent]

	OASI	DI
Employees and employers, each:		
1984	4.575	0.825
1985–89	4.750	0.950
1990 and after	5.100	1.100
Self employed:		
1984	6.8125	1.2375
1985–89	7.1250	1.4250
1990 and after	7.6500	1.6500

House bill

OASDI tax allocated so that both funds will have about the same fund ratios, as indicated below:

[Percent]

	OASI	DI
Employees and employers, each:		
1983	4.775	0.625
1984–87	5.200	.500
1988–89	5.560	.500
1990	5.600	.600
Self-employed persons:		
1983	7.1125	.9375
1984–87	10.4000	1.0000
1988–89	11.1200	1.0000
1990	11.2000	1.2000

Senate amendment

The OASDI tax would be allocated so that both funds will have about the same fund ratios as indicated below:

[Percent]

	OASI	DI	OASDI
Employers and employees, each:			
1984	5.075	0.625	5.7
1984 to 1987	5.20	.50	5.7
1988 to 1989	5.53	.53	6.06
1990 to 1999	5.60	.60	6.20
2000 and later	5.55	.65	6.20
Self-employed persons:			
1983	10.4625	.9375	11.40
1984 to 1987	10.40	1.00	11.40
1988 to 1989	11.06	1.06	12.12
1990 to 1999	11.20	1.20	12.40
2000 and later	11.10	1.30	12.40

Conference agreement

The conference agreement provides for the following allocation:

[Percent]

Calendar year	Total for OASDI and HI	OASI	DI	OASDI	HI
Employees and employers, each					
1982	6.70	4.575	0.825	5.40	1.30
1983	6.70	4.775	.625	5.40	1.30
1984	7.00	5.200	.500	5.70	1.30
1985	7.05	5.200	.500	5.70	1.35
1986–87	7.15	5.200	.500	5.70	1.45
1988–89	7.51	5.530	.530	6.06	1.45
1990–99	7.65	5.600	.600	6.20	1.45

Calendar year	Total for OASDI and HI	OASI	DI	OASDI	HI
2000 and later	7.65	5.490	.710	6.20	1.45
Self-employed persons					
1982	9.35	6.8125	1.2375	8.05	1.30
1983	9.35	7.1125	.9375	8.05	1.30
1984	14.00	10.4000	1.0000	11.40	2.60
1985	14.10	10.4000	1.0000	11.40	2.70
1986–87	14.30	10.4000	1.0000	11.40	2.90
1988–89	15.02	11.0600	1.0600	12.12	2.90
1990–99	15.30	11.2000	1.2000	12.40	2.90
2000 and later	15.30	10.9800	1.4200	12.40	2.90

10. Benefits for Certain Widows, Divorced, and Disabled Women

A. BENEFITS FOR SURVIVING DIVORCED OR DISABLED SPOUSE WHO REMARRIES

Present law

Current law permits the continuation of benefits for surviving spouses who remarry after age 60. However, benefits for disabled widow(er)s and disabled surviving divorced spouses (payable from age 50 to 60) and for surviving divorced spouses (payable at age 60) are terminated if the individual remarries.

House bill

Allows the continuation of benefits for disabled and surviving divorced spouses upon remarriage if that marriage takes place after the age of first eligibility for benefits. Effective for benefits for months after December 1983.

(No change would be made in the current dual entitlement provision of the law which allows an individual to receive only the highest benefit for which such individual is eligible.)

Senate amendment

Same as House bill.

B. CHANGE IN INDEXING DEFERRED SURVIVOR BENEFITS

Present law

Survivor benefits are based on the amount of benefits that would have been payable to the deceased worker as determined by applying a benefit formula to the worker's earnings in covered employment. Such earnings are indexed to reflect economy-wide wage increases through the second year before the death of the worker. Beginning with the year of death, benefit levels are indexed to price changes.

Should the worker die long before retirement age, the benefit to which the widowed spouse ultimately becomes eligible in old-age (or at disability) is based on outdated wages. Thus, women who become widowed at a relatively young age, but do not become eligible for benefits for many years, are deprived of their husband's unrealized earnings as well as the economy-wide wage increases that may have occurred since the death of their husbands.

House bill

In the case of deferred survivor benefits, continues indexing the worker's earnings to reflect economy-wide wage increases rather than price increases. Such wage indexing would apply through the year the worker would have reached age 60, or two years before the survivor becomes eligible for aged or disabled widow's benefits, whichever is earlier. Effective for newly eligible survivors after December 1984.

Senate amendment

Same as House bill.

C. INDEPENDENT ENTITLEMENT FOR DIVORCED SPOUSES

Present law

A divorced spouse, eligible for benefits at age 62, may not begin to draw social security benefits until the former spouse begins to draw benefits. For some divorced women, this means that they must wait several years beyond their own retirement age (because their former spouse delays retirement or otherwise fails to apply for benefits) before they can begin to draw benefits.

House bill

Allows divorced spouses (who have been divorced for at least 2 years) to draw benefits at age 62 if the former spouse is eligible for retirement benefits, whether or not benefits have been claimed or suspended because of substantial employment. Effective for benefits for months after December 1984.

Senate amendment

Same as House bill except for technical difference.

Conference agreement

The conference agreement follows the Senate Amendment.

D. INCREASED BENEFITS FOR DISABLED WIDOWS

Present law

Social Security benefits for widows and widowers are first payable at age 60. Benefits are payable in full (i.e., 100 percent of the worker's primary insurance amount) at age 65, and at reduced rates at ages 60–64 (i.e., phasing up from 71.5 percent of the primary insurance amount at age 60). Benefits are also payable at reduced rates to disabled widows and widowers aged 50–59 (i.e., phasing up from 50 percent of the primary insurance amount at age 50).

House bill

Increases benefits of disabled widow(er)s age 50–59 to 71.5 percent of the primary insurance amount, the amount to which widow(er)s are entitled at age 60. Effective for benefits for disabled widows and widowers for months after December 1983.

Senate amendment

Same as House bill.

11. STABILIZER

Present law

Social security benefits are adjusted automatically every June to reflect increases in the Consumer Price Index. Such adjustments are made without regard to the status of the trust fund reserves.

Income to the social security system depends on the level of wages on which social security contributions are made. When increases in prices outrun increases in wages, income to the trust fund falls behind increases in benefit payments. Cash flow problems may then result, depending on whether accumulated fund reserves are sufficient to make up the gap between income and outlays.

There is no mechanism under current law to adjust trust fund outlays and revenues to take account of economic fluctuations.

House bill

Beginning with 1988, if the fund ratio of the combined OASDI Trust Funds as of the beginning of a year is less than 20.0%, the automatic cost-of-living (COLA) adjustment would be based on the lower of the CPI increase or the increase in average wages. Subsequently, when the balance in the trust funds has risen to at least 32 percent of estimated annual outlays, "catch-up" benefit payments would be made during the following year, as supplements to monthly benefits otherwise payable, to the extend necessary to increase overall benefit levels in order to make up for any losses in inflation protection that result from basing COLA's on wages rather than prices. Such payments would be made only to the extent that sufficient funds are available over those needed to maintain a fund ratio of 32.0%

Senate amendment

Similar to House bill, except that the catch-up payments would supplement monthy benefits otherwise payable to make up for the cumulative dollar losses that could result from basing the adjustment on wages rather than prices.

Conference agreement

The conference agreement follows the House bill with an amendment to provide that the stabilizer would take effect with respect to the cost-of-living increase payable in January 1985 if the trust funds ratio at the end of 1984 is less 15 percent. Beginning in 1989 the stabilizer would take effect if the trust fund ratio falls below 20 percent.

12. PROCEDURES TO ASSURE CONTINUED BENEFIT PAYMENTS (FAIL-SAFE)

Present law

a. Social security benefits are financed by a payroll tax fixed in the law. While benefits are paid out within the first five days of each month, payroll tax revenues are estimated daily by the Treasury, and credited to the trust fund accounts each day.

House bill

Fixed Monthly Tax Transfers: Provides for a revision of accounting procedures under which the Treasury would credit to the OASDHI trust funds, at the beginning of each month the amount of payroll tax revenues estimated to be received during the month. These amounts would be invested by the trust funds as all other trust fund assets are invested; interest will also be paid by the trust funds on amounts transferred to the trust funds in advance of procedures in effect on January 1, 1983. Effective on the first day of the month following enactment.

Senate amendment

Similar to House provision, except that tax receipts would only be advanced for months the Secretary of the Treasury determines that the balances of the OASDI trust funds are less than 20% of outgo. Also, the interest paid to the General Treasury on the excess sums so transferred would be at the rate equal to the average 91-day Treasury bill rate during the month, with such interest being payable at the end of each month.

Effective.—On enactment through 1989.

Conference agreement

The conference agreement follows the House bill.

Present law

b. Interfund borrowing was authorized during 1982, but this authority terminated at the end of the year.

House bill

Interfund borrowing: Authorizes interfund benefit borrowing between the OASI, DI and HI funds for calendar years 1983–87, with provisions for repayment to the lending fund(s) of the principal and interest of all such loans (including amounts borrowed in 1982) at the earliest feasible time but not later than the end of calendar year 1989. Borrowing would be permitted only to the extent there is sufficient balance in the lending fund to meet its own obligations.

Senate amendment

Similar to House bill, except that (1) interest would be paid monthly to HI on any outstanding loans to OASDI; (2) OASDI could not borrow from HI in any month in which the HI trust fund ratio is under 10 percent (with no more to be borrowed than would reduce such ratio to 10 percent); (3) in 1983–87, OASDI would repay loans from HI whenever the OASDI fund ratio at the end of the year exceeds 15 percent; and (4) in 1988-89, OASDI would repay HI, in 24 equal monthly payments, the loan balance outstanding at the end of 1987 (plus interest on any outstanding loan balance). Faster payment would be authorized.

Similar protections would be provided for the OASI and DI trust funds in the event that HI were to borrow from OASDI.

Conference agreement

The conference agreement follows the Senate Amendment.

Present law

c. If at any point revenues from the payroll tax exceed amounts needed for benefit payments, the excess is placed in the trust fund reserve. If revenues fall short of the amount needed, the reserves are drawn on to make up the difference. If the reserves are not adequate to make up the shortfall, under current law the trust funds have no way of making benefit payments on time. (Thus, it is considered critical to have at least one month's benefit payments in reserve at the beginning of each month, and to have enough of a reserve to continue benefit payments through any decline in revenues during the year.) The Board of Trustees is required to report immediately to the Congress if any of the trust funds is unduly small.

House bill

Managing Trustee Report to the Congress Concerning Trust Fund Shortfalls: Requires the Board of Trustees to report immediately to the Congress whenever it is of the opinion that the amount of any of the trust funds may become unduly small and recommend a specific legislative plan to adjust the inflow and outgo of funds to remedy this shortfall with due regard to the economic situation that created the problem and the amount of time available to act in a prudent manner. It is the intent that such legislative action would be effective only so long as is necessary to restore the fund to solvency.

Senate amendment

Requires the Secretary of Health and Human Services to make an annual evaluation of the projected balances in the OASDHI trust funds, taking into account cost-of-living increases. If at the start of any year after 1984 the OASDHI reserve ratio is projected to decline from the start of the next year to the start of the following year and to then be less than 20 percent of a year's benefits, the Secretary would be required to notify the Congress by the preceding July 1 that action to limit the next COLA will be necessary. If no action is taken, the Secretary would be required to scale back the COLA to the extent necessary to prevent a decline in the reserve ratio. (For years after 1987, the fund ratios only for OASDI would be considered.)

Insofar as possible, the limitation of the COLA would be applied to people whose benefits are based on a primary benefit level of more than $250 per month. The determination as to whether a limitation on the cost-of-living increase was necessary would be made only after taking into account all other statutory provisions for assuring adequate funds.

Effective for determinations beginning July 1, 1984.

Conference agreement

The conference agreement follows the House bill with an amendment under which the Trustee's report to the Congress must provide specific information as to the extent to which benefits would have to be reduced, payroll taxes increased, or some combination thereof, in order to restore the trust fund to solvency.

13. Delayed Retirement Credit

Present law

Persons who delay retiring—and claiming social security benefits—beyond age 65 receive increases in their benefits amounting to 3 percent per year for each year they delay retirement up to age 72.

House bill

Gradually increases the delayed retirement credit from 3 percent to 8 percent per year for persons who attain age 65 between 1990 and 2008. In order to conform to the reduction in the age at which the earnings test no longer applies, lowers the age after which the delayed retirement credit will no longer be given from age 72 to 70 for those who attain age 70 after December 1983.

Senate amendment

Similar to House bill except would first apply to people attaining age 62 in 1990, rather than 65 in 1990, and would be fully phased in by 1995. In addition, would remove the upper age limit on receipt of delayed retirement credits, effective January 1984 (floor amendment).

Conference agreement

The conference agreement follows the House bill.

14. Reimbursement to Trust Funds for Military Wage Credits and Uncashed OASDI Checks

A. MILITARY WAGE CREDITS

Present law

Gratuitous military wage credits are provided to persons who served in the military after September 16, 1940. Although members of the armed forces were compulsorily covered under social security in 1957, wage credits continue to be provided to military personnel in recognition of the value of non-cash compensation received.

The cost of the additional benefits and the administrative expenses arising from these non-contributory wage credits are borne by the General fund on a retroactive reimbursement basis (i.e., the costs are reimbursed only after benefits have been paid).

House bill

Provides for a lump-sum payment to the OASDI trust funds from the General Fund for: (i) The present value of the estimated additional benefits arising from the gratuitous military service wage credits for service before 1957; (ii) the amount of the combined employer-employee OASDI taxes on the gratuitous military service wage credits for service after 1956 and before 1983. In addition, the HI trust fund would be credited with the combined employer-employee HI taxes on gratuitous military wage credits for services after 1965 and before 1983. (In the future, the trust funds would be reimbursed on a current basis for such employer-employee taxes on such wage credits for service after 1982.)

Senate amendment

Similar to House bill, except that the lump sum reimbursement for the post 1956 wage credits includes 1983. Also, the initial transfer for pre-1957 military wage credits would be provided through the normal appropriations process.

Conference agreement

The conference agreement follows the Senate amendment, except with respect to the appropriation process for pre-1957 military wage credits.

B. UNCASHED OASDI CHECKS

Present law

The trust funds are not credited for any uncashed OASDI benefit checks. Instead, the value of benefit checks which are not cashed remains in the General Fund of the Treasury.

House bill

Provides for a lump-sum payment to the OASDI trust funds from the General Fund representing the amount of uncashed benefit checks which have been issued in the past plus appropriate amounts of interest. In addition, requires the implementation of a procedure under which: (1) the Treasury Department would make it possible to distinguish OASDI checks from other government checks; and (2) the trust funds would be credited on a regular basis with an amount equal to the value of all OASDI benefit checks which have not been negotiated for a period of 6 months.

Senate amendment

Similar to House bill, except that unnegotiated checks are defined to be those outstanding for a period 12 months after issuance, and no interest is payable to the trust funds on unnegotiated checks. Also, transfers to the trust funds would be subject to the annual appropriation process.

Conference agreement

The conference agreement follows the House bill; except for the Senate amendment making the transfers subject to the annual appropriations process.

II. ADDITIONAL PROVISIONS RELATING TO LONG-TERM FINANCING OF THE SOCIAL SECURITY SYSTEM

1. Adjustments in the Normal Retirement Age

Present law

Normal retirement age (i.e., the age at which full retirement benefits can be received) is age 65. Early retirement benefits are available at age 62 at a rate of 80 percent of the full benefit. Medicare and SSI benefits are also available at age 65. Unreduced retirement benefits are available to workers, spouses, and widows and widowers at age 65. Actuarially reduced benefits are available at age 62 for workers and spouses and at age 60 for widows and widowers.

In computing social security benefits, a worker's earnings under social security are averaged and a benefit formula is applied to those average indexed monthly earnings (AIME) to arrive at the initial basic benefit amount called the primary insurance amount (PIA). The PIA is the amount a worker is eligible to receive at 65. Dependents' and survivors' benefits are based on the worker's PIA.

The formula for a worker who becomes eligible for benefits in 1983 is: 90 percent of the first $254 of AIME, plus 32 percent of the AIME from $254 through $1,528, plus 15 percent of the AIME over $1,528.

The two dollar figures in the formula, $254 and $1,528, are raised (indexed) each year to reflect increases in average wages in the economy. Thus, a new formula is created each year for the new group of workers becoming eligible for benefits in that year.

The annual adjustment of the benefit formula by the full amount of the increase in average wages leads to higher initial benefits over time and to replacement rates—the percentage of a worker's prior earnings that are replaced by his social security benefit—that remain at approximately the same level.

Social security beneficiaries under age 70 who work and have earnings are subject to a one dollar reduction in benefits for every two dollars of earnings, when their earnings exceed certain exempt amounts. For 1983, the annual exempt amount is $6,600 for people age 65 and older. The annual exempt amount is increased each year according to increases in wages.

House bill

(1) Raises the normal retirement age to 67 in two steps.

(A) Raises retirement age to 66 by increasing the age for full benefits by two months a year for six years so that provision would be fully effective beginning with those attaining age 62 in 2005 (66 in 2009).

(B) Raises retirement age from 66 to 67 by increasing the age for full benefits by two months a year for six years so that the provision would be fully effective beginning with those attaining age 62 in 2022 (67 in 2027).

(2) Age 62 benefits would be maintained at an ultimate rate of 70 percent of full benefits. (After age for full retirement is changed to 67.) No changes would be made in Medicare or SSI benefits.

(3) Requires the Secretary, by January 1, 1986, to conduct and submit with recommendations to Congress a comprehensive study and analysis of the implications of the change in retirement age for those individuals affected by this change who, because they are engaging in physically demanding employment or because they are unable to extend their working careers for health reasons, may not benefit from improvements in longevity.

(4) Makes no changes in the current law earnings test.

Senate amendment

(1) Raises the normal retirement age to 66, by increasing the age for full benefits one month a year for 12 years (between 2000 and 2011) so that the provision would be fully effective beginning with those attaining age 66 in 2015. The first age of eligibility for Medicare would shift in tandem with the new retirement age.

(2) Early retirement benefits would continue to be payable at age 62, but at an ultimate rate of 75 percent of full benefits (after age for full retirement is changed to 66.)

(3) Requires the 1987 Social Security Advisory council to study the effect of raising the retirement age and requires recommendations on changes to the DI, SSI and unemployment compensation programs to meet the special needs of older workers. In addition, provides for the appointment, subject to approval by the Chairmen of the Committees on Finance and Ways and Means, of Council representatives of organized labor and experts on the problems of older workers, disability and unemployment and the labor market.

(4) Between 2000 and 2007, gradually reduces initial benefit levels by 5.3 percent for future beneficiaries. The percentage factors in the benefit formula would be reduced by two-thirds of one percent each year for 8 years, beginning with those first becoming eligible in the year 2000, and would be fully effective for those becoming eligible in 2007. The benefit factor reduction would be phased-in under the following schedule:

For initial eligibility (or death) in—	The applicable percentage		
	Up to the first bend point is—	Between the first and second bend points is—	Above the second bend point is—
1979–99 (current law)	90.0	32.0	15.0
2000	89.4	31.8	14.9
2001	88.8	31.6	14.8
2002	88.2	31.4	14.7
2003	87.6	31.1	14.6
2004	87.0	30.9	14.5
2005	86.4	30.7	14.4
2006	85.8	30.5	14.3
2007 and after	85.2	30.3	14.2

(5) Gradually phases out, beginning in 1990, the retirement earnings test for people 65 and older. The exempt amount of earnings (as it would be automatically increased by wage trends) would be further increased by $3,000 in 1990 and by a further $3,000 in each

of the next four years, with the earnings test (for people 65 and older) completely eliminated in 1995.

Conference agreement

The conference agreement follows the House Bill except for a Senate amendment, effective beginning in 1990, to reduce the earnings test offset for those age 65 and older to one dollar for every three dollars earned over the annual exempt amount.

III. MISCELLANEOUS AND TECHNICAL PROVISIONS

1. CASH MANAGEMENT

A. FLOAT ALLOWANCE REVISION

Present law

Social security benefit checks are issued to beneficiaries on the third day of each month. Current Treasury procedures allow a two-day float before trust fund monies are actually transferred to the Treasury in order to pay the checks which have been issued.

House bill

Requires the Secretaries of Treasury and Health and Human Services to conduct a study consisting of two separate investigations. The first concerns the actual average length of time between the issuance of benefit checks and their redemption; the second would deal with the feasibility and desirability of providing for the transfer on a daily basis to the general fund from the appropriate trust fund amounts equal to the amounts of benefit checks which are paid by the Federal Reserve Banks on that day.

The Secretary of the Treasury would be required to promulgate regulations to implement the changes found appropriate by these investigations.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. INTEREST ON LATE STATE DEPOSITS

Present law

The annual interest rate charged on late payments of social security contributions due on the earnings of State and local employees is 6 percent per annum.

House bill

Changes the rate of interest charged on late payments of social security contributions due on the earnings of state and local employees to a rate equal to the average interest rate earned by new special obligations of the trust funds during the period of the delinquency. (Effective with respect to payments due for wages paid after Dec. 31, 1983.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate Amendment.

C. TRUST FUND INVESTMENT PROCEDURES

Current law

Payroll tax revenues which are in excess of the amount necessary to pay current benefits generally must be invested in "special issue" obligations available for purchase only by the trust funds. Such obligations have maturities fixed with due regard for the needs of the trust funds and bear an interest rate equal to the average market yield on all marketable, interest bearing obligations of the U.S. which are not due or callable within 4 years.

House bill

Requires the managing trustee of the Social Security Trust Funds to redeem most current trust fund investments and make all future investments in a new type of Treasury public debt obligation bearing interest at a rate that varies from month to month. For each month, the interest rate on the new type of obligation will be equal to the higher of (1) the average market yield over the preceding month on all public-debt obligations (other than "flower bonds") with maturities of more than 4 years or (2) the average market yield for similar obligations with 4 years or less to maturity.

Requires that annual reports of the Social Security Boards of Trustees to the Congress include a certification by the chief actuary of the Social Security Administration that the reports meet generally accepted standards within the actuarial profession.

Allows the 1983 annual reports to be filed any time before 45 days after enactment.

Senate amendment

Similar to House bill, except that the interest rate to be applied to the social security investments would be the same long-term, special-issue rate used under current law. The redeemed investments and all future funds would be invested in special depository accounts, rather than new special issue obligations.

Also, requires actuarial statement, but does not have to certify the reasonableness of the assumptions and cost estimates underlying the trustee's report (floor amendment).

No provision.

Conference agreement

Both Houses recede with respect to trust fund investment procedures. With respect to the actuarial statement and the delay of the 1983 Trustees' report, the conference agreement follows the House bill, with an amendment providing that the certification shall not refer to economic assumptions underlying the Trustees' report.

D. SEPARATE TREATMENT OF TRUST FUND OPERATIONS UNDER UNIFIED BUDGET

Present law

Beginning with 1969, the financial operations of the social security trust funds have been included in the unified budget of the Federal Government.

House bill

Provides for the display of OASI, DI, HI and SMI fund operations as a separate function within the budget. Beginning with fiscal year 1989, these trust fund operations (except for SMI) would be removed from the unified budget.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill except that the trust fund operations would not be removed from the unified budget until fiscal year 1992.

2. Elimination of Gender-Based Distinctions Under the Old-Age, Survivors, and Disability Insurance Program

Unless otherwise noted, the proposed amendments concerning the elimination of gender-based distinctions would be effective with respect to benefits payable for months after the month of enactment.

A. DIVORCED HUSBANDS

Present law

The Social Security Act provides for the payment of benefits to aged divorced wives and aged or disabled surviving divorced wives but benefits are not provided for similarly situated men.

House bill

Amends the statute to confrom to court decisions by providing social security benefits for aged divorced husbands and aged or disabled surviving divorced husbands based on their former wives earnings records. (SSA is currently complying with court decisions.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. REMARRIAGE OF SURVIVING SPOUSE BEFORE AGE 60

Present law

Widows and widowers who remarry before age 60 are treated differently with respect to their eligibility for benefits based on their deceased spouses' earnings. A woman may qualify for benefits as a surviving spouse, even though she has remarried, so long as she is not married at the time she applies for benefits. A man, however, under current law loses forever his eligibility as a surviving spouse of his deceased wife worker if he remarries before age 60. Since the decision of *Mertz* v. *Harris* (1980), SSA has paid benefits to remarried widowers on the same basis as to remarried widows.

House bill

Amends the statute to conform to court decisions by making the requirements for widowers' and widows' benefits consistent. (SSA is currently complying with the aforementioned court decisions.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

C. ILLEGITIMATE CHILDREN

Present law

An illegitimate child may be eligible for benefits based upon a man's earnings, without regard to the appropriate State intestate laws, if among other things, the man has been decreed by a court to be the father of the child, or the man is shown by evidence satisfactory to the Secretary to be the father of the child. Similar provisions do not currently apply when an illegitimate child claims a benefit based upon his mother's earnings.

House bill

Provides that illegitimate children would be eligible for benefits based on their mother's earnings as they are currently for benefits based on their father's earnings.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

D. TRANSITIONAL INSURED STATUS

Present law

Certain workers who attained age 72 before 1969 are eligible for social security benefits under transitional insured status provisions which require fewer quarters of coverage than would ordinarily be required. Wives and widows of eligible male workers who reached 72 prior to 1969 also are eligible for benefits under this provision, but husbands and widowers of eligible female workers are not.

House bill

Extends to husbands and widowers the transitionally insured status provisions which currently apply to wives and widows.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

E. PROUTY BENEFITS

Present law

Special payments are provided to persons who attained age 72 before 1968 and who have no quarters of coverage and to persons age 72 in 1968 or after who have at least three quarters of coverage for every year after 1966 and before the year of attainment of age 72. However, even though each spouse must meet the same eligibility requirements if he or she were not married, once the eligibility of both is determined, the couple is treated as if the husband were the retired worker and the wife were the dependent. The benefit is allocated so that the husband is paid two-thirds of the benefit and the wife is paid one-third.

House bill

Provides that where both husband and wife each qualify for Prouty benefits under Section 228 of the Social Security Act, each would receive a full monthly benefit.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

F. FATHERS' INSURANCE BENEFITS

Present law

A young wife, widowed mother or surviving divorced mother who has an entitled child under age 16 in her care receives a benefit for both herself and her child based upon the earnings of her husband. Under the law a similarly situated father cannot qualify for benefits based on his retired, disabled, or deceased wife's earnings.

House bill

Amends the statute to conform to court decisions by providing social security benefits for a father who has in his care an entitled child of his retired, disabled, or deceased wife (or deceased former wife). (SSA is currently complying with the aforementioned court decisions.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

G. EFFECT OF MARRIAGE ON CHILDHOOD DISABILITY AND OTHER DEPENDENTS' OR SURVIVORS' BENEFITS

Present law

When a childhood disability beneficiary is married to another childhood disability beneficiary or to a disabled worker beneficiary, and the disability benefits of one of the beneficiaries is terminated because the beneficiary recovers or engages in substantial work, the continued eligibility of the other spouse depends upon the spouse's sex. A woman's childhood disability benefits end when her husband's disability benefits end. However, a man's childhood disability benefits are not terminated when his wife's disability benefits end.

House bill

Continues the benefits of a childhood disability beneficiary, regardless of sex, when the beneficiary's spouse is no longer eligible for benefits as a childhood disability beneficiary or disabled worker beneficiary.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

H. EFFECTS OF MARRIAGE ON OTHER DEPENDENTS' OR SURVIVORS' BENEFITS

Present law

If a childhood disability beneficiary or disabled worker beneficiary marries a person receiving certain kinds of social security dependent or survivor benefits, the benefits of each individual continue. If the disabled beneficiary is a male and he recovers or engages in substantial work and his benefits are terminated, his wife's benefits also end. If, however, the disabled beneficiary is a woman, her husband's benefits are not terminated when her disability benefits end.

House bill

Continues social security payments to an individual, regardless of sex, who is receiving dependents' or survivors' benefits, when his or her spouse is no longer eligible for childhood disability benefits or benefits as a disabled worker.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

I. CREDIT FOR MILITARY SERVICE

Present law

A widow (but not a widower) is permitted, under certain circumstances, to waive the right to a civil service survivor's annuity and receive credit (not otherwise possible) for military service prior to 1957 for purposes of determining eligibility for and the amount of, social security survivors' benefits.

House bill

Allows widowers to exercise the option to waive the right to a civil service survivor's annuity in the same way as is currently permitted for widows.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. COVERAGE

A. FOREIGN AFFILIATES OF AMERICAN EMPLOYERS

Present law

Work by a U.S. citizen outside the U.S. for a foreign subsidiary of a domestic corporation is covered by social security if the domestic corporation arranges for coverage by entering into a voluntary agreement with the Internal Revenue Service; the agreement applies to all citizens subsequently employed by the subsidiary if their work would be covered if performed in the U.S.

A "foreign subsidiary" of a domestic corporation is defined as a foreign corporation of which: not less than 20 percent of its voting stock is owned by a domestic corporation; or more than 50 percent of its voting stock is owned by another foreign corporation and at least 20 percent of the latter corporation's voting stock is owned by a domestic corporation.

A domestic corporation which has entered into a voluntary agreement providing for social security coverage of U.S. citizens employed by its foreign subsidiary can also elect to include such U.S. citizens in its qualified pension, profit-sharing, stock bonus, etc. plans. A similar rule applies to U.S. citizens employed by a domestic corporation's domestic subsidiary that operates primarily abroad.

House bill

Broadens the availability of social-security coverage to American citizens working abroad by: (1) permitting coverage of American citizens working outside the United States for a foreign affiliate of an American employer; and (2) reducing the ownership interest in the foreign affiliate that is required to be held by the American employer from 20 percent to 10 percent (either directly or through one or more entities). These changes would be effective upon enactment.

In addition, coverage would be extended to include employees of American employers and affiliates who are residents of the United States as well as American citizens. (This provision applies generally to remuneration paid after December 31, 1983.)

Conforming changes would be made in the provisions relating to the extension of coverage under qualified pension. profit-sharing, stock bonus, etc. plans for employees of a domestic corporation's subsidiary.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. FOREIGN EARNED INCOME EXCLUSION

Present law

U.S. citizens and resident aliens who are not residents of a foreign country for a full year compute their net self-employment income for purposes of social security taxes (SECA) without regard to the foreign earned income exclusion. However, no coverage is provided for these taxable earnings.

U.S. citizens who are residents of a foreign country compute their net self-employment income excluding amounts which are also excluded for income tax purposes by the foreign earned income exclusion.

House bill

Provides that foreign earned income which is currently subject to social security self-employment tax would be creditable for social security coverage purposes, effective with respect to taxable years beginning after December 31, 1981.

Provides that all net self-employment income would be computed for SECA purposes without regard to the foreign income exclusion, effective with respect to remuneration paid after December 31, 1983.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

C. INCLUDING ELECTIVE FRINGE BENEFITS AND NONQUALIFIED DEFERRED COMPENSATION IN THE SOCIAL SECURITY WAGE BASE

Present law

(1) Cash or deferred arrangements (Code section 401(k)).—Under a cash or deferred arrangement forming a part of a qualified profit-sharing or stock bonus plan, a covered employee may elect to have the employer contribute an amount to the plan on the employee's behalf or to receive such amount directly in cash. Amounts contributed to the plan pursuant to the election are treated as employer

contributions and are excluded from the employee's taxable income and social security wage base.

(2) Cafeteria plans (Code section 125).—Under a cafeteria plan of an employer, an employee may choose among various benefits including cash, taxable benefits and nontaxable benefits (including a cash or deferred arrangement) offered under the plan. If certain requirements are met, amounts applied toward nontaxable benefits are excluded from the employee's taxable income and generally from the social security wage base.

(3) Tax-sheltered annuities (Code section 403(b)).—Subject to certain limitations, amounts paid by the employer for the purchase of a tax-sheltered annuity for an eligible employee are excluded from the employee's taxable income and social security wage base. Tax-sheltered annuities may be purchased for employees of educational institutions and certain tax-exempt organizations. Tax-sheltered annuities may be purchased pursuant to a salary reduction agreement.

(4) Nonqualified deferred compensation plans.—Amounts deferred under a nonqualified deferred compensation plan generally are taxable when they are paid or when there is no substantial risk of forfeiture, depending upon whether or not the plan is unfunded or funded. However, if the plan is a retirement plan or the amounts are paid on account of retirement, the amounts are generally excludible from FICA and FUTA. These plans may be utilized by (1) taxable employers to provide retirement benefits in excess of those permitted under tax-qualified retirement plans or coverage limited primarily to highly compensated or management employees, (2) tax-exempt employers, and (3) State and local governments.

House bill

(1) An employer's plan contributions on behalf of an employee under a qualified cash or deferred arrangement would be includible in the social security wage base for tax and coverage purposes to the extent that the employee could have elected to receive cash in lieu of the contribution, effective for remuneration paid after Dec. 31, 1983.

(2) Amounts subject to an employee's designation under a cafeteria plan would be includible in the social security wage base to the extent that such amounts may be paid to the employee in cash or property or applied to provide a benefit for the employee not excluded from the FICA wage base effective for remuneration paid after Dec. 31, 1983.

(3) Amounts paid by an employer for a tax-sheltered annuity for an employee will be includible in the social security wage base.

(4) No provision.

Senate amendment

(1) Same as House bill.

(2) Same as House bill, except applies only to cafeteria plans which include a cash-or-deferred arrangement as one of the optional fringe benefits.

(3) Any amounts paid by an employer to a tax-sheltered annuity by reason of a salary reduction agreement between the employer

and the employee would be includible in the social security wage base.

(4) The amount deferred under a (nonqualified) compensation plan will be includible in the social security wage base as of the later of (1) when the services are performed or (2) when there is no substantial risk of forfeiture of the rights to the amounts. In the case of a governmental plan, a deferred compensation plan will only include certain nonqualified plans of State and local governments.

Conference agreement

(1) The conference agreement generally follows the House bill and the Senate amendment with respect to qualified cash or deferred arrangements. Employer contributions to these arrangements will be taxable for FICA and FUTA purposes whether or not the cash or deferred arrangement is part of a cafeteria plan. A transition rule is provided to exclude certain remuneration paid after the effective date of this provision if paid pursuant to certain elective deferrals made before January 1, 1984 (January 1, 1985, with respect to FUTA taxes).

(2) The conference agreement contains no other provision concerning the inclusion of amounts applied toward nontaxable (for FICA purposes) benefits in a cafeteria plan.

(3) The conference agreement generally follows the Senate amendment by providing that employer contributions to a section 403(b) annuity contract would be included in the wage base if made by reason of a salary reduction agreement (whether evidenced by a written agreement or otherwise). For this purpose, the conferees intend that employment arrangements, which under the facts and circumstances are determined to be individually negotiated, would be treated as salary reduction agreements. Of course, the mere fact that only one individual is receiving employer contributions (*e.g.*, where the employer has only a few employees, only one of whom is a member of a class eligible for such contributions) is not, by itself, to be considered proof of individual negotiation.

(4) With respect to nonqualified deferred compensation plans, the conference agreement generally follows the Senate amendment that includes amounts deferred in the employee's FICA and FUTA wage base when services are performed or, if later, when there is a lapse of a substantial risk of forfeiture (within the meaning of sec. 83) of the employee's right to those amounts. As under present law, amounts treated as employer contributions under a State pick-up plan (sec. 414(h)(2)) or amounts deferred under eligible State and local deferred compensation arrangements are includible in the wage base when deferred. The conference agreement provides that any payment to, or on behalf of, an employee or his beneficiary under certain supplemental retirement plans, which provide cost-of-living adjustments to the pension benefits under tax-qualified plans, will not be included in the wage base. Finally, under the conference agreement, in the case of certain agreements, in existence on March 24, 1983, between a nonqualified deferred compensation plan and an individual, the provision would only apply to services performed after December 31, 1983 (December 31, 1984, for FUTA purposes).

D. STANDBY PAY

Present law

Any payment (other than vacation or sick pay made to an employee after the month in which he or she attains age 62, where the employee did not work for the employer in the period in which such payment is made, is excluded from the definition of wages for both benefit and tax purposes.

House bill

Includes in the statutory definition of wages, payments made to an individual with the expectation that he or she will subsequently render services (effective with respect to calendar years beginning after the sixth month after date of enactment).

Senate amendment

Same as House bill, except it would be effective for remuneration paid after 1983.

Conference agreement

The conference agreement follows the Senate amendment.

E. CODIFICATION OF ROWAN DECISION WITH RESPECT TO MEALS AND LODGING

Present law

In *Rowan Companies, Inc.* v. *United States,* 452 U.S. 247 (1981), the Supreme Court stated that the definition of "wages" for FICA purposes must be interpreted in regulations in the same manner as for income-tax withholding purposes. At issue in *Rowan Companies, Inc.* was the exclusion, for FICA tax purposes, of employer provided meals and lodging from gross income under code sec. 119.

House bill

With the exception of the value of meals and lodging provided for the convenience of the employer, the determination of whether or not amounts are includible in the social security wage base is to be made without regard to whether such amounts are treated as wages for income tax withholding purposes. In addition, the bill provides that the definition of wages for social security tax and benefit purposes is revised to exclude the value of employer provided meals and lodging if such value is excluded from the employee's gross income. The provision applies to remuneration paid after December 31, 1983.

Senate amendment

Same as House bill.

F. EXCLUSION OF EMPLOYER PAYMENTS MADE UNDER SIMPLIFIED EMPLOYEE PENSION PLANS

Present law

In 1978, the Internal Revenue Code was amended to exclude from wages for social security tax purposes employer payments to or on behalf of an employee under a simplified employee pension (SEP) plan. However, no corresponding change was made to the Social Security Act definition of covered wages.

House bill

Amends the Social Security Act to exclude in the definition of covered wages for social security coverage purposes employer contributions to a simplified employee pension (SEP) plan. Effective with respect to remuneration paid after December 31, 1983.

Senate amendment

Same as House bill, except also changes definition for FUTA purposes effective January 1, 1985.

Conference agreement

The conference agreement follows the Senate amendment.

G. DEFINITION OF EMPLOYER FOR WITHHOLDING ON SICK PAY

Present law

Present law includes in the definition of wages for the purpose of social security and railroad retirement taxes, payments made under a sick pay plan to an employee or any of his dependents by a third-party on account of the employee's illness.

Proposed Treasury regulations would require a third-party payor (for example, an insurance company) to withhold social security or railroad retirement taxes on the sick pay payments they make as if they were paying wages. However, the third-party payor would be permitted to shift responsibility for the employer's portion of the tax to the last employer for whom the employee worked.

House bill

Provides that, to the extent permitted [illegible] regulations, a multi-employer plan which makes sick pay payments will be treated as the agent of the employer for whom services [illegible] normally rendered.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

H. CONFORMING AMENDMENTS TO FUTA WAGE BASE

Present law

The definition of wages subject to tax under the Federal Unemployment Tax Act (FUTA) is similar to the definition of wages subject to FICA.

House bill

No provision.

Senate amendment

The bill amends FUTA to conform to changes made in the FICA wage base by this bill and P.L. 97-123 with respect to elective compensation, standby pay, the *Rowan* decision, simplified employee pensions, and sick pay (items above).

Conference agreement

The conference agreement follows the Senate amendment.

I. INTERNATIONAL SOCIAL SECURITY AGREEMENTS

Present law

An international Social Security agreement is to establish "methods and conditions for determining under which system [i.e., the foreign system or our own] employment, self-employment, or other service shall result in a period of coverage". However, through an inadvertent drafting error earnings that are intended to be covered under the U.S. system pursuant to an international social security agreement are not covered because U.S. social security taxes cannot be imposed on the earnings.

House bill

Provides for the imposition of social security taxes if an international social security agreement provides for coverage under the U.S. social security system. (Effective for taxable years after the date of enactment.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

J. STATE AND LOCAL EMPLOYEE GROUPS IN UTAH

Present law

Utah is permitted to extend social security coverage to specific entities listed in the law as separate coverage groups. The names of some of the entities specifically listed in the law have changed since the provision was enacted.

House bill

Amends the provision in the Social Security Act listing entities for which Utah may arrange social security coverage to provide that coverage would not be affected by a subsequent change in the name of any of the entities.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

K. EFFECTIVE DATES OF INTERNATIONAL SOCIAL SECURITY AGREEMENTS

Present law

Totalization agreements can only become effective after the expiration of a period during which each House of the Congress has been in session on each of 90 days. (This has been interpreted to mean that both Houses of Congress must be in session on a particular day for it to count in the 90-day calculation.

House bill

Provides that totalization agreements can become effective after the expiration of a period during which only one House of the Congress must be in session on each of 60 days.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. ADDITIONAL AMENDMENTS

A. TECHNICAL AND CONFORMING AMENDMENTS TO THE MAXIMUM FAMILY BENEFIT PROVISIONS

Present law

When children are simultaneously entitled to benefits on the records of two or more workers, the Maximum Family Benefits payable on each record are combined for the purposes of determining the benefits payable to those children. The law contains a limit, however, on the highest possible combined Maximum Family Benefit, sometimes referred to as the super maximum. Whenever the wage base increases (in January of every year), the super maximum is recomputed. In addition, in June of each year the super maximum is increased when the cost-of-living adjustment is made in general benefit levels. Thus, families whose benefits are limited by the super maximum can have their benefits unexpectedly increased or decreased each January when the super maximum is recomputed.

House bill

Provides that after initial entitlement, a family's super maximum would be adjusted each year when a cost-of-living increase is provided to everyone on the benefit rolls.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. RELAXATION OF INSURED STATUS REQUIREMENTS FOR CERTAIN WORKERS PREVIOUSLY ENTITLED TO DISABILITY INSURANCE BENEFITS

Present law

Workers who are disabled before age 31 have a lower insured status requirement than older workers. However, such a worker who recovers from his or her disability and subsequently becomes disabled again at age 31 or later may have difficulty establishing entitlement to disability benefits at that time because he or she has not had sufficient time to obtain the necessary 20 quarters of coverage before the subsequent disability.

House bill

Provides that a worker who had a period of disability which began before age 31, recovered, and then became disabled again at age 31 or later would again be insured for disability benefits if he/she had quarters of coverage in half the calendar quarters after age 21 and through the quarter in which the later period of disability began (up to a maximum of 20 out of 40 quarters). Effective generally for applications filed after enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

C. ILLEGITIMATE CHILDREN OF DISABLED BENEFICIARIES—FIRST MONTH OF ENTITLEMENT

Present law

The first month for which certain benefits are paid is delayed from the month *during which* the individual satisfied the various entitlement conditions to the first month *throughout which* those conditions were satisfied. This provision does not apply to the benefits of illegitimate children of retired beneficiaries. However, this provision does apply to the illegitimate children of disabled workers.

House bill

Provides social security monthly benefits to the illegitimate child of a disabled worker for a month in which the child satisfied all other entitlement conditions but was not eligible for benefits because the acknowledgment or court decree or order establishing parenthood occurred later than the first day of that month. Effective on enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

D. ONE-MONTH RETROACTIVITY OF WIDOW'S AND WIDOWER'S BENEFITS

Present law

The payment of retroactive benefits is prohibited if such payment would require the lowering of future benefits.

House bill

Allows an aged widow or widower to receive actuarially reduced benefits for the month in which the insured spouse died, if the application is filed in the following month, even though the retroactive payment would result in lower future monthly benefits than would be the case if benefits were not paid retroactively. Effective for applications filed after the second month following the month of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

E. CLARIFY THE PROVISION IN SOCIAL SECURITY LAW EXEMPTING BENEFITS UNDER SSA-ADMINISTERED PROGRAMS FROM ASSIGNMENT

Present law

Since 1935, the Social Security Act has prohibited the transfer or assignment of any future social security or SSI benefits payable and further states that no money payable or rights existing under the Act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

Based on the legislative history of the Bankruptcy Reform Act of 1978, some bankruptcy courts have considered social security and SSI benefits listed by the debtor to be income for purposes of a Chapter XIII bankruptcy and have ordered SSA in several hundred cases to send all or part of a debtor's benefit check to the trustee in bankruptcy.

House bill

Specifically provides that social security and SSI benefits may not be assigned notwithstanding any other provisions of law, including P.L. 95-598, the "Bankruptcy Reform Act of 1978". Effective on enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

F. USE OF DEATH CERTIFICATES TO PREVENT ERRONEOUS BENEFIT PAYMENTS TO DECEASED INDIVIDUALS

Present law

There are currently no well-developed procedures or arrangements to permit SSA to determine on a timely basis when a beneficiary has died.

House bill

Provides authority for the Secretary of HHS to contract with states for death certificate information. This information would be matched with SSA benefit records to help insure that benefit payments are promptly terminated when the beneficiary dies.

Senate amendment

Similar to House except incorporates GAO and SSA comments.

Conference agreement

The conference agreement follows the Senate amendment.

G. STUDY OF SSA AS AN INDEPENDENT AGENCY

Present law

The Social Security Administration is currently part of the Department of Health and Human Services.

House bill

Authorizes a feasibility and implementation study with respect to establishing SSA as an independent agency. Such study shall include but not be limited to the following points: the feasibility of changing the current status of SSA; how to manage the transition; what authorities would need to be transferred or amended; what programs would be involved; what agency administrative relationships would need to be adjusted, etc. The study would be conducted (in consultation with the Commissioner of Social Security) by a panel of administrative experts appointed by the House Committee on Ways and Means and the Senate Committee on Finance, with a report and recommendations to be submitted to the Committees no later than January 1, 1984.

Senate amendment

Similar to the House provision except—

(1) commission would be appointed by the President with advice and consent of the Senate,

(2) report would be due no later than April 1, 1984, and

(3) implementation, not feasibility, of independent SSA, is included in study mandate.

Conference agreement

The conference agreement provides for the following:

In keeping with the recommendations of the National Commission on Social Security Reform, a study shall be conducted with respect to the establishment of the Social Security Administration as an independent agency under a bipartisan board appointed by the

President, by and with the advice and consent of the Senate. The study shall be conducted by a Commission consisting of experts widely recognized in the fields of government administration, social insurance, and labor relations. The study shall address, analyze and report to the Congress on: how to manage the transition, what authorities would need to be transferred or amended, the program(s) which should be included within the jurisdiction of the new agency, the legal and other relationships of the Social Security Administration with other organizations which would be required as a result of establishing the Social Security Administration as an independent agency, and any other details which may be necessary for the development of appropriate legislation to establish the Social Security Administration as an independent agency.

The study would be conducted (in consultation with the Commissioner of Social Security) by a panel of experts appointed by the House Committee on Ways and Means and the Senate Committee on Finance, with a report and recommendations to be submitted to the Committees no later than April 1, 1984.

H. PUBLIC PENSION OFFSET

Present law

Under a provision enacted in 1977, people becoming eligible for a public pension on their own account after November 1982, will generally have the amount of any social security dependents or survivors' benefits reduced dollar-for-dollar on account of that public pension.

Under a provision adopted last year, persons who become eligible for a public pension after November 1982 and before June 1983 who meet a "one-half support" dependency test are exempt from the offset.

House bill

For persons who become eligible for public pension after June 1983, the amount of the public pension used for purposes of the offset against social security benefits would be one-third of the public pension.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill except that the percentage of the public pension to be used for purposes of the offset would be two-thirds.

I. CHILD-CARE DROP OUT YEARS

Present law

In computing a worker's covered earnings history under social security (upon which family benefits are based), up to five years of low earnings are dropped.

House bill

No provision.

Senate amendment

The provision would allow up to two additional years to be dropped for persons who leave the workforce to care for a child under 3 in the home. To qualify for a child-care drop year, the worker can have no earnings at all during the year.

Effective for persons first eligible for benefits after 1983.

Conference agreement

The conference agreement follows the House bill.

J. PUBLIC MEMBERS ON BOARD OF TRUSTEES

Present law

The Board of Trustees of the four social security trust funds (Old-Age and Survivors Insurance, Disability Insurance, Hospital Insurance, and Supplemental Medical Insurance) consists of, ex officio, the Secretaries of the Treasury, Health and Human Services, and Labor, with the Secretary of the Treasury serving as the managing trustee. Among other responsibilities, the Board of Trustees is required to report to Congress each year on the operation and status of the trust funds, review the general policies followed in managing the trust funds, and recommend changes in such policies.

House bill

No provision.

Senate amendment

Add two public members to the Board of Trustees of the OASDI, HI, and SMI trust funds. The public members would be nominated by the President and confirmed by the Senate. The two public members could not be from the same political party. Trustees would not be considered fiduciaries and would not be personally liable for actions taken in such capacity with respect to the trust funds.

Effective upon enactment.

Conference agreement

The conference agreement follows the Senate Amendment.

K. LIMITATION ON BENEFITS TO ALIENS

Present law

There are no citizenship or residence requirements for receiving social security cash benefits (OASDI). Any alien in the U.S.—whether legally or illegally, or as a permanent or temporary resident—is eligible for benefits provided he has engaged in covered employment and otherwise meets the eligibility requirements. Dependents and survivors are also eligible for benefits regardless of their immigration status or that of the insured worker.

House bill

No provision.

Senate amendment

Limitations would be placed on the payment of benefits to alien workers, their dependents and survivors who reside abroad. Benefits would continue to be paid only under the following conditions:

(1) the worker is the citizen of a country with which the United States has a treaty or totalization agreement; and

(2) until total benefits paid to the wage earner (after any income taxes paid) and dependents equal social security taxes payable by the wage earner plus interest.

This provision would apply to new eligibles on or after January 1, 1985.

In addition, prohibits the payment of social security benefits to noncitizens who are unable to establish at the time they apply for benefits that they had ever been legally admitted to work in the United States.

Effective for those first eligible after December 1983.

Also, in the case of beneficiaries who are under final orders of exclusion, departure or voluntary departure in lieu of deportation and can be shown by the Attorney General to have earned social security credits during periods of illegal work, those credits would not be used in computing social security benefits, thereby potentially eliminating benefits. (Floor amendment.)

Conference agreement

The conference agreement would suspend the payment of benefits to any alien receiving benefits as a dependent or survivor of an insured worker (whether or not the worker is a U.S. citizen) when the alien beneficiary has been outside the U.S. for six consecutive calendar months. Alien auxiliary beneficiaries who could prove that they had lived in the U.S. for a total of at least five years during which their relationship with the worker was the same as the relationship upon which eligibility for benefits is based (e.g., spouse, child, parent) would be exempt from the suspension of benefits. Children would be deemed to meet the 5-year residence requirement if the residence requirement could be met by the child's parents.

L. LIMITATION ON PRISONERS BENEFITS

Present law

Persons imprisoned for the conviction of a felony may not receive student benefits (which are being phased out anyway), and are not eligible for disability benefits unless they are participating in a court-approved rehabilitation program. (Dependents benefits are not affected.) Also, impairments resulting from the commission of a crime cannot be the basis for disability benefits and impairments occurring during imprisonment cannot be the basis for disability benefits during the period of imprisonment.

Presently, benefits may continue to be paid to incarcerated felons who are either retired workers, widow or widower beneficiaries, spouses of retired or disabled workers, and to those DI beneficiaries in a court-approved rehabilitation program.

House bill

No provision.

Senate amendment

The provision would eliminate all benefits to felons during their period of incarceration. In addition, would prohibit payments to inmates of facilities for the criminally insane (Floor amendment). Benefits of dependents and survivors of incarcerated felons would not be affected.

Effective for benefits paid for the month after enactment.

Conference agreement

The conference agreement follows the Senate amendment, with an amendment providing that the limitation on prisoner's benefits will only extend the provision in current law applying to disability insurance benefits to old age and survivors' insurance benefits.

M. ACCELERATE STATE AND LOCAL DEPOSITS

Present law

Requires the deposit of withheld social security taxes for State and local employees within thirty days after the end of the month in which the applicable wages were paid.

By contrast, the frequency with which deposits of social security taxes and income taxes are made by private employers is determined under regulations issued by Treasury and vary in accordance with the tax liability of the employer. Deposits are required as frequently as every week for employers with large liabilities and as infrequently as every three months for employers with smaller liabilities.

Although State and local governments are now governed by the same rules as private employers with regard to depositing withheld income taxes, deposits of social security taxes continue to be treated differently.

House bill

No provision.

Senate amendment

The provision would apply the same social security tax deposit requirements to State and local governments that now apply to private employers.

Effective for deposits required to be made after December 1983.

Conference agreement

Under the conference agreement State and local governments would be required to deposit withheld social security taxes on a biweekly (i.e. every two weeks) basis.

N. EXCLUSION FROM SOCIAL SECURITY COVERAGE FOR SERVICES PERFORMED BY MEMBERS OF CERTAIN RELIGIOUS SECTS

Present law

In general, social security (FICA) tax is imposed on every individual who receives wages with respect to employment. In addition, social security tax is imposed on employers who pay wages with respect to employment. There is no exemption, under present law, for employers or employees who are members of religious sects that oppose the social security system. However, present law does provide an exemption from self-employment tax (SECA) for members of religious sects that are conscientiously opposed to the acceptance of private or public insurance and which make provision for the care of their dependent members.

House bill

No provision.

Senate amendment

The provision will exempt from social security tax wages paid by individuals who are exempt from self-employment taxes because of their religious beliefs to individuals who are members of religious sects that conscientiously oppose the acceptance of private or public insurance and which make provisions for the care of their dependent members. This exemption applies both to the employer and employee portion of social security tax.

The exemption applies only in the case of religious sects that have been in existence at all times since December 31, 1950.

Effective for remuneration paid after 1983.

Conference agreement

The conference agreement follows the House bill.

O. INCREASE IN FICA AND WITHHOLDING TAX DEPOSIT THRESHOLD

Present law

In general, employers that have $500 or more of undeposited FICA and withholding taxes at the end of any month must deposit those taxes within 15 days after the end of that month. However, employers that have $3,000 or more of undeposited taxes at the end of any eighth-monthly period must deposit those taxes within 3 days after the close of the eighth-monthly period.

House bill

No provision.

Senate bill

Eighth-monthly deposits for any month will not be required until the employer has at least $5,000 of undeposited taxes. Once this $5,000 threshold is reached, the employer will be required to make further eighth-monthly deposits so long as there is $3,000 or more of undeposited taxes at the end of any eighth-monthly period falling within the same month.

The provision is effective for months beginning after December 31, 1983. (Floor amendment.)

Conference agreement

The conference agreement follows the House bill.

P. APPLICATION OF COMMON PAYMASTER RULES TO CERTAIN NONPROFIT ORGANIZATIONS EMPLOYING MEDICAL SCHOOL FACULTY MEMBERS

Present law

Present law generally requires an employer to pay FICA taxes with respect to a given employee only up to the amount of annual wages referred to as the wage base. Thus, if an employee works for more than one employer during the year and if his annual wages exceed the tax base, employer FICA taxes, taking into account all the employers for whom the individual worked, may be paid on amounts in excess of the wage base.

There is a "common paymaster" exception to these general rules which provides that if two or more related corporations concurrently employ the same individual and compensate him through a common paymaster that is one of the corporations, then the common paymaster is considered to be the only employer regardless of the fact that the individual performed services for other related corporations. Under one of the tests provided in regulations, two corporations are related if 30 percent or more of one corporation's employees are concurrently employees of the other corporation.

House bill

No provision.

Senate bill

A State university that employs health care professionals as faculty members at a medical school and a tax-exempt faculty practice plan that employs faculty members of the medical school would be deemed to be related corporations for purposes of the common paymaster rules, provided that 30 percent or more of the employees of the plan are concurrently employed by the medical school. Remuneration that is disbursed by the faculty practice plan to an individual employed by both the plan and the university which, when added to remuneration actually disbursed by the university, exceeds the contribution and benefit base will be deemed to have been actually disbursed by the university as a common paymaster and not to have been disbursed by the faculty practice plan.

The provision is effective on enactment (Floor amendment.)

Conference agreement

The conference agreement follows the Senate amendment.

Q. ELECTIVE COVERAGE FOR MINISTERS AS EMPLOYEES

Present law

Under present law, ministers are not employees for social security tax (FICA) purposes. However, ministers generally are subject to the self-employment (SECA) tax.

House bill

No provision.

Senate amendment

The provision allows ministers and their churches to treat services performed by ministers as employment for FICA tax purposes. Remuneration for such services would not be subject to the SECA tax. Once made, this election is irrevocable.

The provision is effective with respect to service performed on or after the first calendar quarter beginning after the date of enactment. (Floor amendment.)

Conference agreement

The conference agreement follows the House bill.

R. STUDY OF FEASIBILITY OF IMPLEMENTING SOCIAL SECURITY OPTION ACCOUNTS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires an 18-month study by Treasury of a plan to permit workers to have part of their (and their employers') social security taxes allocated to an IRA type account. The designated deposits would be tax deductible. Subsequent social security benefits would be reduced to take IRA deposits into account. (Floor amendment.)

Conference agreement

The conference agreement follows the House bill.

S. EARNINGS SHARING IMPLEMENTATION STUDY (SECTION 161 OF SENATE AMENDMENT)

Present law

Earnings are credited for social security purposes to the record of the worker to whom they are paid.

House bill

No provision.

Senate amendment

By January 1, 1984, requires the Secretary of Health and Human Services to report to the House Committee on Ways and Means and the Senate Committee on Finance on proposals that combine earnings of a husband and wife during the period of their marriage and divide them equally for social security benefit purposes. The study will analyze the impact of earnings sharing proposals on social security beneficiaries, and include recommendations (1) to provide adequate protection to particular classes of beneficiaries where necessary and (2) with respect to a feasible time period for implementation. In addition, the study will include cost estimates. (Floor amendment.)

Conference agreement

The conference agreement follows the Senate amendment with an amendment to delay the date to July 1, 1984.

T. CASHING OF CHECKS ISSUED TO DECEASED BENEFICIARIES

Present law

OASDI checks do not include a notice stating that cashing of a check to deceased individuals constitutes a felony.

House bill

No provision.

Senate amendment

Requires that all checks issued, and the envelopes in which they are mailed, include a notice that cashing or attempted cashing of a check which was erroneously issued to a deceased person constitutes a felony punishable under section 208 of the Social Security Act. Effective for checks issued for months after December 1983. (Floor amendment.)

Conference agreement

The conference agreement follows the House bill.

U. ADMINISTRATIVE REORGANIZATION OF VETERANS' ADMINISTRATION LOS ANGELES DATA PROCESSING CENTER

Present law

The Veterans' Administration is generally prohibited from reducing the staff at any of its offices by more than 10 percent in any fiscal year without advance notice to the Congress approximately 8 months prior to the beginning of that fiscal year.

House bill

No provision.

Senate amendment

Waives the requirements of veterans law (section 210(b)(2)(A) of title 38, USC) in the planned administrative reorganization at the Veterans Administration Los Angeles Data Processing Center involving the transfer of 25 full-time equivalent employees.

Conference agreement

The conference agreement follows the Senate Amendment.

V. TREASURY STUDY OF INDIVIDUAL RETIREMENT SECURITY ACCOUNTS (IRSA)

Present law

No provision.

House bill

No provision.

Senate amendment

Treasury would study the feasibility of implementing IRSA's which would be similar to an IRA. Individuals would establish and fund the IRSA and receive a tax credit limited to 20 percent of the individual's social security taxes, with a proportionate reduction in Old-Age and Survivors and Disability benefits. The study would be submitted to Congress before July 1, 1984.

Conference agreement

The conference agreement follows House bill.

W. TREATMENT OF EARNINGS OF DISABLED BLIND INDIVIDUALS

Present law

Blind disabled individuals are regarded as demonstrating the ability to engage in substantial gainful activity if their earnings exceed the exempt amount under the earnings test for individuals age 65 and over.

House bill

No provision.

Senate amendment

Provides that no individual who is blind shall be regarded as having demonstrated an ability to engage in substantial gainful activity solely on the basis of earnings; the benefits of such individuals shall be reduced in accordance with the earnings test for individuals age 65 and over. This would be effective for people applying for benefits after enactment.

Under a related amendment, the SGA level for the blind would be phased out as the earnings test is phased out for individual 65 and older (between 1990 and 1995).

Conference agreement

The conference agreement follows the House bill.

X. TRANSITIONAL BENEFITS TO WIDOW(ER)S

Present law

Nondisabled widow(er)s who do not have a child in their care are first eligible for benefits at age 60. If disabled, such widow(er)s are eligible for benefits at age 50 or older. Widow(er)s with a child in care are eligible for benefits regardless of their age.

House bill

No provision.

Senate amendment

Provide 6 months of benefits to persons widowed between the ages of 55 and 60. The benefit amount would be 71.5 percent of the worker's primary insurance amount (i.e., unreduced from the benefit payable at age 60). Effective for monthly benefits after date of enactment.

Conference agreement

The conference agreement follows House bill.

Y. BANKNOTE PAPER SOCIAL SECURITY CARDS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires that new and replacement social security cards be issued on banknote-quality paper beginning not later than 193 days after enactment.

Conference agreement

The conference agreement follows the Senate Amendment.

TITLE IV—SUPPLEMENTAL SECURITY INCOME (SSI) PROVISIONS

1. Increase in Federal Benefit Standard

Present law

The current maximum monthly SSI benefit is $284.30 for a single person and $426.40 for married couples. Benefits are indexed to the Consumer Price Index (CPI). Cost-of-living increases are provided annually in July if the CPI for the first quarter of the calendar year increases by at least 3 percent over the first quarter of the previous year. Benefits are increased by the same percentage as social security benefits. This occurs through a reference in the SSI law to the social security cost-of-living provision. For example, the current payment level of $284.30 per individual, which became effective July 1982, represents an increase of 7.4 percent (or $19.60 monthly) from the previous July 1981 level of $264.70.

House bill

The Federal SSI benefit payment is increased by $20 per month for individuals and $30 per month for couples, effective July 1, 1983.

The next Federal SSI cost-of-living adjustment (COLA) is delayed from July 1983 until January 1984. Federal SSI benefits will be adjusted in January 1984, and every January thereafter, by the same percentage and under the same procedures as OASDI benefits. The provision to pay the lower of the increase in wages or prices, which is applicable to OASDI benefit increases beginning in 1988, would apply to SSI. As with title II, the 1983 COLA, to be paid in January, 1984, will be provided even if the CPI increase is less than 3 percent.

Senate amendment

Same as the House bill, (with technical correction), except that the provision to pay the lower of the increase in wages or prices, which would be applicable to OASDI benefit increases beginning in 1988, would not apply to SSI.

Conference agreement

The conference agreement follows the Senate amendment.

2. Adjustment in Federal Pass-Through Provisions

Present law

P.L. 94-585, enacted October 21, 1976, established Federal SSI "pass-through" requirements, effective with the cost-of-living increase provided in July 1977. These provisions provide States with two options for meeting the pass-through requirements.

(1) Aggregate spending level option.—A State may make State supplementary payments in any current 12-month period that are no less, in the aggregate, than were made in the previous 12-month period (17 States use this option); or

(2) Individual payment level option.—A State may maintain the supplementary payment levels that were in effect for categories of individual recipients in December 1976. (All other States use this measure, except Texas and West Virginia which have no State supplementation program.)

An amendment in P.L. 97-248 allows a State that shifts from the aggregate spending option to the individual payment level option to maintain State supplementation levels in effect in the previous December rather than the levels in December 1976.

House bill

States would be allowed the following options in meeting the pass-through requirement:

(1) Aggregate spending level option.—Same as present law.

(2) Individual payment level option.—Current law is modified (a) by substituting the State supplementary payment levels in effect in March 1983 for those in effect in December 1976 as the levels that States must maintain in complying with the payment level pass-through requirement and, (b) with regard to the $20/$30 increase in the Federal SSI standard in July 1983, by requiring States to pass-through only as much as would have been required if the SSI COLA were not changed from July 1983 to January 1984.

Senate amendment

States would be allowed the following options in meeting the pass-through requirements:

(1) Aggregate spending level option.—Same as present law.

(2) Individual payment level option.—The payment levels that must be maintained would be either (a) those in effect in December 1976, or the previous December, as under current law; or (b) those in effect in March 1983, as provided in the House bill. In other words, the March 1983 supplementary payment levels would be an additional option for complying with the payment level pass-through provision, rather than a substitute for the December 1976 levels as under the House bill.

Conference agreement

The conference agreement follows the House bill.

3. SSI ELIGIBILITY FOR TEMPORARY RESIDENTS OF EMERGENCY SHELTERS FOR THE HOMELESS

Present law

Under current law, aged, blind or disabled individuals who are residents of private emergency shelters are eligible for SSI. However, such residents of public shelters cannot receive SSI.

House bill

Aged, blind or disabled individuals who are temporary residents of public emergency shelters could receive SSI payments for a period of up to three months during any 12-month period.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. DISREGARDING OF EMERGENCY AND OTHER IN-KIND ASSISTANCE PROVIDED BY NONPROFIT ORGANIZATIONS

Present law

SSI: In-kind assistance (other than assistance to meet home energy needs) that is provided by a private nonprofit organization to aged, blind, or disabled individuals must generally be counted as income under the SSI program.

AFDC: Under HHS rules, States have the authority to decide whether or not to count in-kind assistance as income under the AFDC program. There is no provision in the AFDC statute (other than in the case of home energy assistance) which specifically provides that authority.

House bill

SSI: Effective upon enactment until September 30, 1984, any support or maintenance assistance provided in-kind by a private nonprofit organization to aged, blind, or disabled individuals must be disregarded under the SSI program, if the State determines that the assistance is provided on the basis of need for such support or maintenance.

AFDC: The AFDC statute would be amended to give States specific authority, at their option, to disregard such assistance in determining AFDC benefits. This would be effective upon enactment until September 30, 1984.

Senate amendment

No provision

Conference agreement

The conference agreement follows the House bill.

5. Notification Regarding SSI

Present law

Currently, there is no statutory requirement that OASDI beneficiaries be contacted and informed of potential eligibility for Supplemental Security Income (SSI) payments. However, since the beginning of the SSI program, the Social Security Administration has undertaken a number of outreach efforts to identify those potentially eligible. SSA routinely provides information about SSI eligibility and takes applications for SSI payments at the time of application for OASDI benefits, if the applicant is potentially eligible for SSI payments. In addition, many State agencies and other private relief groups routinely refer clients to SSA. Presently, about 6.9 percent of elderly social security recipients also receive SSI.

House bill

No provision.

Senate amendment

Prior to July 1, 1984, the Secretary of Health and Human Services would be required to notify, on a one-time basis, all elderly OASDI beneficiaries who are potentially eligible, of the availability of SSI and encourage them to contact their district offices. In addition, the provision would require that the same information be included with the notification to OASDI beneficiaries of upcoming eligibility for Supplemental Medical Insurance.

Conference agreement

The conference agreement follows the Senate amendment.

TITLE V—UNEMPLOYMENT COMPENSATION (UC) PROVISIONS

1. Extension of Federal Supplemental Compensation (FSC) Program

Present law

Under the current FSC program, which became effective on September 12 1982, and expires March 31, 1983, additional weeks of Federally financed unemployment compensation benefits are provided to jobless workers who have exhausted all other State and Federal unemployment benefits. The number of weeks of FSC benefits that jobless workers may receive depends on (a) the number of weeks of State unemployment benefits received by each claimant, and (b) the State in which the claimant qualified for or receives the benefits.

As originally enacted, the FSC program, depending upon State insured unemployment rates (IUR),[1] provided a maximum of 10, 8, or 6 additional weeks of benefits. As amended by provisions contained in the Surface Transportation Assistance Act of 1982 (P.L. 97–424), beginning with the week of January 9, 1983, the FSC program provides the following maximum weeks of benefits:

(1) 16 weeks in States with a 13 week average insured unemployment rate (IUR) of at least 6.0 percent;

(2) 14 weeks in States that were triggered on the extended benefits program between June 1, 1982 and January 6, 1983;

(3) 12 weeks in the remaining States that have a 13 week average IUR of at least 4.5 percent;

(4) 10 weeks in the remaining States that have a 13 week average IUR from 3.5 percent to 4.4 percent; and,

(5) 8 weeks in all other States.

The number of weeks of FSC a qualified individual may receive is the lesser of 65 percent of the number of weeks of regular State benefits he received or the maximum number of weeks of FSC payable in the State. In the case of an interstate claim for FSC, the individual is eligible for the lesser of (a) the maximum number of weeks of FSC payable to him in the State in which he receives the benefits or (b) the maximum number of weeks payable to him in the State in which he qualified for FSC benefits.

To qualify for FSC an individual must have exhausted all State and extended benefits to which he is entitled, and he must meet State and extended benefit qualification requirements. This means he must have worked at least 20 weeks or have the equivalent in wages during the base period.

House bill

The FSC program is extended for 6 months, from April 1, 1983 through September 30, 1983.

Effective April 1, 1983, FSC benefits would be payable as follows:

(a) Basic FSC Benefits.—Individuals who begin receiving FSC on or after April 1, 1983 could receive up to a maximum of:

(1) 14 weeks in States with average IUR 6.0 percent and above;

(2) 13 weeks in States with average IUR 5.0 to 5.9 percent;

(3) 11 weeks in States with average IUR 4.5 to 4.9 percent;

(4) 10 weeks in States with average IUR 3.5 to 4.4 percent;

(5) 8 weeks in all other States.

(b) Additional FSC Benefits.—Individuals who exhaust FSC on or before April 1, 1983 could receive additional weeks equal to three-fourths of the basic FSC entitlement payable in the State, up to a maximum of:

(1) 10 weeks in the 14 basic week States (average IUR 6.0 or above);

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[1] The Insured Unemployment Rate (IUR) is the percentage of workers covered under the State unemployment compensation law who are claiming State unemployment benefits in a particular week. The number of weeks of FSC payable in a State depends upon the average IUR measured over a moving 13 week period.

(2) 8 weeks in the 13 and 11 basic week States (average IUR 4.5 to 5.9);

(3) 6 weeks in the 10 and 8 basic week States (average IUR 4.4 and below).

(c) Transitional FSC Benefits.—Individuals who begin receiving FSC before April 1, 1983 and have some FSC entitlement remaining after that date, could also receive additional weeks under (b) above. However, the combination of their remaining basic FSC entitlement received after April 1, 1983, and the additional weeks provided in (b), cannot exceed the maximum number of weeks of basic FSC benefits payable in the State, shown in (a) above.

Section 503 provides for the coordination of the FSC extension with the Trade Readjustment program.

Senate amendment

The FSC program is extended for 6 months from April 1, 1983 through September 30, 1983.

Effective April 1, 1983, FSC benefits would be payable as follows:

(a) Basic FSC Benefits.—Individuals would begin receiving FSC on or after April 1, 1983 could receive up to a maximum of:

(1) 14 weeks in States with average IUR 6.0 percent and above;

(2) 12 weeks in States with average IUR 5.0 to 5.9 percent;

(3) 10 weeks in States with average IUR 4.0 to 4.9 percent;

(4) 8 weeks in all other States.

The maximum number of weeks payable in a State after April 1, 1983 could be no more than 4 weeks less than the maximum number payable on March 27, 1983.

(b) Additional FSC Benefits.—Individuals who exhaust FSC on or before April 1, 1983 could receive additional weeks of FSC benefits up to a maximum of:

(1) 8 weeks in States with IUR at 6.0 and above

(2) 6 weeks in States with IUR at 5.0 to 5.9

(3) 4 weeks in all other States.

(c) Transitional FSC Benefits.—Individuals who begin receiving FSC before April 1, 1983 and have some FSC entitlement remaining after that date, could also receive addditional weeks under (b) above. However, the combination of their remaining basic FSC entitlement received after April 1, 1983, and the additional weeks provided in (b), cannot exceed the maximum number of weeks of basic FSC benefits payable in the State, shown in (a) above.

(d) Phaseout FSC Benefits.—Individuals who have not exhausted their FSC entitlement on September 30, 1983, when the program expires, would be eligible to receive up to 50 percent of their remaining FSC entitlement. No new claimants would be added to the FSC program on or after September 30, 1983.

(e) New Qualification Requirement.—Claimants must have worked 26 weeks or have earned the equivalent in wages during their base period to qualify for FSC. This applies only to claimants becoming eligible for FSC on or after April 1, 1983.

Conference agreement

(a) Basic FSC Benefits.—The conference agreement follows the Senate amendment with a modification in the provision under which the maximum number of weeks payable in a State after

April 1, 1983 could be no more than 4 weeks less than the maximum number of weeks payable under the FSC law in effect as of March 27, 1983. Under the modification, this provision would apply only in those States where the maximum number of FSC weeks payable for the first week beginning after March 27, 1983 or, if later, the first week FSC benefits provided under this bill are payable was more than 4 weeks less than the maximum number of weeks payable under the FSC law in effect on March 27, 1983.

(b) Additional FSC Benefits.—The conference agreement follows the House bill with the following adjustment: 10 additional weeks would be payable in States with average IUR at 6.0 percent and above; 8 additional weeks would be payable in States with average IUR at 4.0 to 5.9 percent; and, 8 additional weeks would be payable in all other States.

(c) Transitional FSC Benefits.—The conference agreement follows the House bill.

(d) Phaseout FSC Benefits.—The conference agreement follows the Senate amendment.

(e) New Qualification Requirement.—The conference agreement follows the House bill.

(f) Coordination of FSC and Trade Readjustment Assistance.—The conference agreement follows the House bill.

2. Limitation on Disqualification of FSC Claimants Who Enroll in Training

Present law

The Federal Unemployment Tax Act provides, as a condition for employers in a State to receive the normal FUTA tax credit, that the State law not deny unemployment compensation to otherwise eligible claimants for any week during which they are attending a training course with the *approval* of the State agency. Many States frequently disapprove of training, however. In addition, State laws must provide that individuals in approved training must not be denied benefits because they are unavailable for work, are not actively searching for work, or have refused suitable work.

House bill

No provision.

Senate amendment

Would prohibit the denial of FSC to any otherwise eligible claimant for any week because: (1) the claimant is attending training or an accredited educational institution on a full-time basis; or (2) because of State law requirements that the claimant must be available for work, actively searching for work, or must not have refused work during the training, unless the State agency determines that the training will not improve the claimant's employment opportunities.

Effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment.

3. DEFERRAL OF INTEREST PROVISION

Present law

Present law imposes interest of up to 10 percent per year on Federal unemployment compensation loans obtained by the States after April 1, 1982, except for "cash flow" loans that States repay by the end of the fiscal year in which the loans were obtained. A State with high unemployment can defer payment of, and extend the payment for, 75 percent of interest charges due in any year. The State must pay one-third of the deferred amount in each of the three years following the fiscal year for which it is due. Interest is charged on the deferred interest. In order to qualify for this deferral and extension of the payment period, the State insured unemployment rate must have equaled or exceeded 7.5 percent during the first 6 months of the preceding calendar year.

House bill

No provision.

Senate amendment

(a) The Senate amendment makes the provisions imposing interest on loans to States permanent.

(b) The amendment also allows States to defer 80 percent of the interest due for a fiscal year, effective for interest accrued in fiscal years 1983, 1984, and 1985. The deferred amount would be payable in 4 installments in the succeeding years equal to at least 20 percent of the original amount of interet due. A State would be required to meet conditions 1 and 2(A) or 2(B) below to qualify for the deferral:

(1) no action has been taken to reduce its tax effort or trust fund solvency; and

(2)(A) action (certified by the Secretary of Labor) has been taken after March 31, 1982 which increases revenues and decreases benefits by a total of 25 percent in the calendar year immediately following the fiscal year for which the first deferral is requested; and, deferral of interest due for the years immediately following the year in which the first year change is effective may be received if changes of 35 and 50 percent are made; or,

(B) for taxable year 1982, total State UC tax revenues equaled at least 2 percent of total wages paid by employers covered under the State UC law.

(c) Interest will not be charged against any interest for which payment is deferred under current law deferral provisions or those added by this bill and summarized in (b) above.

(d) The amendment allows a State to delay for up to nine months the payment of interest due for any calendar year after 1982 during which the average total unemployment rate in the State was 13.5 percent or higher. The average total unemployment rate for a State shall be computed using the 12-month period for which the most recent information is available prior to the month in which the interest is due. Interest will *not* be charged against interest for which payment is delayed.

(e) The amendment allows States to receive a discounted interest rate that would be one percentage point below the interest rate that would otherwise apply. This would be authorized for interest accrued only for fiscal years 1983, 1984, and 1985. It would be available under the same conditions as the new deferral above, except the required percentage changes in (2) would be higher at 50, 80, and 90 percent, respectively.

For purposes of determining whether a State meets the conditions in (2) above, the Secretary of Labor will provide an estimate of the unemployment rate for the base year, the calendar year in which the deferral is requested. The level of benefits and revenue liabilities will be determined using the State law in effect before passage of the legislation. The estimate of changes as a result of new legislation will be made from the base year in each year for which a deferral is requested. Changes in State law which automatically provide for increases in benefit amounts will be considered as if they were in effect in the base year for purposes of determining the change occuring as a result of new legislation. The Secretary of Labor may use historical growth rates for indexed items if appropriate. Once a deferral is approved, a State must continue to maintain its solvency effort. Failure to do so would result in immediate payment of all deferred interest.

Increases in the taxable wage base from $6,000 to $7,000 after calendar year 1982 and increases in the maximum FUTA tax rate to 5.4 percent after calendar year 1984 will not be counted for purposes of meeting condition (2).

States will not be penalized or rewarded if economic events change from those used in the base year for computing eligibility under conditions (2).

Conference agreement

The conference agreement follows the Senate amendment.

4. CAP ON CREDIT REDUCTION

Present law

The Federal Unemployment Tax Act (FUTA) imposes a Federal unemployment compensation (UC) tax on employers in all States at a rate of 3.5 percent on a taxable wage base of $7,000. However, employers in States generally receive a FUTA tax credit of 2.7 percent, resulting in a net Federal tax rate of 0.8 percent. States with insufficient State unemployment compensation revenues to meet State unemployment compensation obligations may borrow from the Federal Unemployment Account. If a State defaults on its loans from the Federal account, employers in the State begin to lose the FUTA tax credit at the rate of at least .3 percent a year. For example, because of overdue Federal UC loans, sixteen States are experiencing a reduction in the 2.7 percent credit for tax year 1982.

Specifically, if a Federal UC loan is not entirely repaid by the State by the second January 1 after the State receives the loan and remains unpaid on the following November 10 of that year, the FUTA tax credit applicable for that year for the State's employers is reduced by .3 percent. For each succeeding year in which the loan remains outstanding, the reduction is at least an additional .3 percent (i.e., .6, .9, 1.2 percent, etc.). Additional offset credit reductions may apply to a State beginning in the second year of repayment if certain criteria are not met. Under legislation enacted in the 1970's, credit reductions were not imposed from 1975–1980 for States satisfying specific requirements.

The 1981 Budget Reconciliation Act made two major changes in loan payment conditions, effective from January 1, 1981 to December 31, 1987: (1) interest of up to 10 percent is charged on loans made after April 1, 1982 (except those made for "cash flow" purposes and repaid by the end of the fiscal year in which they occur); and (2) States were allowed to "cap" the automatic FUTA credit reductions if certain solvency requirements are met.

In a State that qualifies for the cap, the tax credit reduction is limited to the higher of 0.6 percent, or the rate that was in effect for the State for the preceding calendar year.

The cap provisions are designed to give States additional time to make legislative and administrative changes necessary to restore the State trust funds to solvency. These provisions lengthen the repayment period, but do not reduce a State's total liability.

In order to qualify for the cap on the automatic credit reductions a State must demonstrate that:

(1) the net solvency of its UI system has not diminished (effective for taxable years 1981–1987);

(2) there have been no decreases in its unemployment tax effort (effective for taxable years 1981-1987);

(3) its average tax rate for the calendar year equals or exceeds its average benefit cost rate for the prior five years (effective for taxable years 1983-1987); and

(4) the outstanding loan balance as of September 30 of the tax year in question is not greater than on the third preceding taxable year (effective for taxable years 1983–1987 the comparable year for taxable year 1983, however, is 1981).

House bill

No provision.

Senate amendment

(a) Makes the credit reduction cap provisions in present law permanent.

(b) A State would still be required to meet all four conditions in present law to qualify for the full credit reduction cap. The amendment would, however, provide two lower *annual* credit reductions, if a State does not qualify for the total cap:

(1) If a State meets the first two present law credit reduction cap conditions and either of the remaining two conditions, the *annual* credit reduction would be reduced by 0.1 percentage points from what it would have been if the State had not qualified for a cap; and

(2) If a State meets the first two credit reduction cap conditions and qualifies for the interest deferral as a result of substantial changes in its unemployment compensation law, the annual credit reduction would be reduced by 0.2 percentage points from what it would have been if the State had not qualified for a cap. A substantial change in action (certified by the Secretary of Labor) taken after March 31, 1982 which increases revenues and decreases bene-

fits by a total of 25 percent in the calendar year immediately following the fiscal year for which the first interest deferral is requested. Deferral of interest due for the years immediately following the year in which the first year change is effective may be received if changes of 35 and 50 percent are made.

The lower credit reductions would be authorized only for taxable years 1983, 1984, and 1985 liabilities. Credits earned during this period would be applied in determining the State's offset credit reduction for years after 1985.

The January 1st of each year for which a State qualifies for a partial limitation on the offset credit reduction will be taken into account for purposes of determining future offset credit reduction. The credit reduction applicable in each subsequent year after the partial limitation is in effect would continue to be reduced by the amount by which the offset credit was reduced.

Conference agreement

The conference agreement follows the Senate amendment.

5. AVERAGE EMPLOYER CONTRIBUTION RATE

Present law

Present law provides that a State, in the second year in which the offset credit reduction is imposed to repay outstanding loans, may be subject to an additional credit reduction equal to the amount by which the State's average tax rate is lower than 2.7 percent. The average tax rate and the 2.7 percent are computed from the ratio of taxes collected to State and Federal taxable wages, respectively. Taxable wages are determined by the taxable wage base. Any wages above the taxable wage base are therefore not included.

In States where the taxable wage base exceeds the Federal taxable base of $7,000, the ratio of the State's UC tax revenues to the State's taxable wages will be lower than it would be if the taxable wage base was $7,000. This could activate the additional credit reduction in the second year even though these States have relatively higher tax efforts.

House bill

No provision.

Senate amendment

Changes the calculations so that all wages instead of just taxable wages are counted in the denominators of the State tax rates and the 2.7 percent. Each State's tax rate on all wages subject to contributions under the Federal Unemployment Tax Act (FUTA) is compared to an estimate of the national percentage of all wages subject to FUTA contributions that 2.7 percent of taxable wages represents. The 2.7 percent factor is calculated as the product of 2.7 percent and the ratio of the Federal taxable wage base ($7,000) and the estimated United States average annual wage in covered employment for the calendar year in which the determination is made.

Effective for taxable years beginning with 1983.

Conference agreement

The conference agreement follows the Senate amendment.

6. DATE FOR PAYMENT OF INTEREST

Present law

Present law requires that interest is due no later than the first day of the next fiscal year. If the next fiscal year falls on a weekend, interest is due in the prior fiscal year. Otherwise, it is due on the first day of the next fiscal year.

House bill

No provision.

Senate amendment

Requires payment of interest before the first day of the next fiscal year.

Effective on date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

7. PENALTY FOR FAILURE TO PAY INTEREST

Present law

If a State does not pay interest when it is due, there are no provisions in present law through which the Federal government can penalize the State or enforce the collection of interest charges.

House bill

No provision.

Senate amendment

Provides that, if a State fails to pay interest charges when they are due, (a) Federal unemployment compensation and employment service administrative funds will be withheld and (b) the State's unemployment compensation program will lose its Federal certification, which will result in employers in the State losing eligibility for the credit against the Federal unemployment tax.

Effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment.

8. TREATMENT OF EMPLOYEES PROVIDING SERVICES TO EDUCATIONAL INSTITUTIONS

Present law

The Federal Unemployment Tax Act (FUTA) covers employees of educational institutions. FUTA *requires* States to deny benefits between academic years or terms to certain professional employees working in instructional, research, and principal administrative capacities if they have a reasonable assurance of returning to work in the next academic year or term. FUTA gives the States the *option* of applying the same denial of benefits provision to nonprofessional employees of educational institutions.

House bill

No provision.

Senate amendment

(a) States would be *required* to deny benefits between academic years or terms to nonprofessional employees of educational institutions if the employees have a reasonable assurance of returning to work in the next academic year or term;

(b) States would be *required* to deny benefits between terms to individuals performing services on behalf of an educational institution or an educational service agency even though not employed by either the institution or agency.

The provisions would be effective on or after April 1, 1984. States in which there is no legislative session before that date, however, would be given additional time to comply with this provision.

Conference agreement

The conference agreement follows the Senate amendment in (a) above that requires States to deny benefits between terms to nonprofessional employees of educational institutions. The conference agreement follows the Senate amendment in (b) above with the modification that it would be optional to the States to extend the between term denial to individuals performing services on behalf of an educational institution or an educational service agency even though not employed by either the institution or the agency.

9. EXTENDED BENEFITS FOR INDIVIDUALS WHO ARE HOSPITALIZED OR ON JURY DUTY

Present law

Present law disqualifies claimants from receiving Extended Benefits or Federal Supplemental Compensation if they are not actively seeking work. Moreover, the disqualified claimant must go back to work for at least 4 weeks and earn at least 4 times his weekly benefit amount before he can qualify again for Extended Benefits or Federal Supplemental Compensation.

House bill

No provision.

Senate amendment

Permits States to determine weekly eligibility based on availability for work for claimants of Extended Benefits and FSC who are serving on jury duty or are hospitalized for treatment of an emergency or life-threatening condition. A State must treat these individuals in accordance with their own State unemployment compensation law.

Effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment.

10. OPTION FOR VOLUNTARY HEALTH INSURANCE DEDUCTION FROM UNEMPLOYMENT BENEFITS

Present law

Section 3304(a)(4) of the Federal Unemployment Tax Act prohibits States from withdrawing money from the State unemployment trust fund for anything except the payment of unemployment compensation benefits or to refund certain taxes erroneously paid by employers.

House bill

Provides States the option of deducting an amount from the unemployment compensation benefits otherwise payable to an individual and using the amount deducted to pay for health insurance, if the individual elects to have such a deduction made from his benefits.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

11. TREATMENT OF CERTAIN ORGANIZATIONS WHO WERE RETROACTIVELY GRANTED 501(c)(3) STATUS

Present law

Unemployment insurance coverage was extended to employees of certain nonprofit organizations in 1970 and then extended to employees of generally all nonprofit organizations in 1976.

Under the 1970 and 1976 amendments, nonprofit organizations were given the option of financing unemployment benefits paid to their former employees through the State unemployment payroll tax system that applies to private employers (contribution method) or by retroactively reimbursing the State trust fund for the amount of benefits paid to their former employees (reimbursement method).

Nonprofit employers who had voluntarily covered their employees prior to the 1970 or 1976 amendments and financed benefit costs by the contribution method, and after enactment of the 1970 or 1976 amendments chose to switch to the reimbursement method of financing, were permitted to apply any accumulated balance in their accounts toward costs incurred in the future and paid for on a reimbursement basis. The authority to make such a transfer, however, was available for a limited period of time that expired shortly after enactment of the 1976 and 1970 amendments.

House bill

Allows a nonprofit organization that elects to switch from the contribution to the reimbursement method of financing unemployment benefits to apply any accumulated balance in its State unemployment account to costs incurred after it switches to the reimbursement method, under the following conditions:

(1) the organization did not elect to switch to the reimbursement method under prior authority because during these peri-

ods the organization was treated as a 501(c)(4) organization by the IRS, but the organization has been subsequently determined by the IRS to be a 501(c)(3) organization; and,

(2) the organization elects to switch to the reimbursement method before the earlier of 18 months after such election was first available to it under State law or January 1, 1984.

Senate amendments

No provision.

Conference agreement

The conference agreement follows the House bill.

12. WAIVER OF PENALTY TAX ON WITHDRAWALS FROM INDIVIDUAL RETIREMENT ACCOUNTS (IRA'S) BY CERTAIN UNEMPLOYED WORKERS

Present law

An individual generally is subject to a penalty tax equal to 10 percent of any distribution from an individual retirement account (IRA) to the individual for whose benefit the IRA was established if the individual is less than age 59½ when the distribution is made. However, the penalty tax does not apply if the distribution is attributable to the individual's becoming permanently and totally disabled.

House bill

No provision.

Senate amendment

The 10 percent penalty tax would not apply in the case of distributions from an IRA to an individual who has at least 20 quarters of coverage under social security, and who has received, within the preceding 12-month period, regular unemployment compensation under State law, and has exhausted all rights to such compensation in his most recent benefit year. The amendment would apply to withdrawals after the date of enactment.

Conference agreement

The conference agreement follows the House bill.

13. REEMPLOYMENT VOUCHERS

Present law

No provision.

House bill

No provision.

Senate amendment

Would permit claimants of Federal Supplemental Compensation (FSC) to offer a voucher equal to 75 percent of their maximum potential FSC benefits to prospective employers in lieu of FSC benefits no later than one month after they become eligible for FSC. If the employer hires the claimant, the State agency will certify the employer's use of the following portions of the voucher's face value in payment of Federal employment taxes (FUTA and FICA): (1) 25 percent within the first month of employment; (2) 25 percent in each of the next groups of three months of employment. If a claimant cannot use the voucher or only uses a portion, he would receive the balance of his maximum potential FSC benefits, reduced by the payments made to employer or the amount of FSC he would have received for the period.

The employer must certify that the employment under the voucher meets the following conditions: (1) the employee will be employed for an average of at least 30 hours per week during the payment period; (2) displacement of current employees, including reduced nonovertime hours, will not occur; and (3) the employee will not be hired to fill a vacancy created by laying off or terminating a regular employee.

Also, no "payment" may be made to a claimant's base year employer.

Effective upon enactment.

Conference agreement

The conference agreement follows the House bill.

TITLE VI. PROSPECTIVE PAYMENTS FOR MEDICARE INPATIENT HOSPITAL SERVICES

1. Prospective Payment Amount

Present law

Under present law, medicare payment amounts are retrospectively determined based upon a hospital's reasonable costs, subject to the limits established by TEFRA. Certain reimbursement limits are applied to (1) hospital inpatient operating costs ("section 223" limits) and (2) the rate of increase in inpatient operating costs (this limit expires after fiscal year 1985).

House bill

Under the House bill, the Secretary would be required to determine prospectively a payment amount for each hospital discharge. Hospital cases (discharges) would be classified into "diagnosis related groups" (DRG's).

Senate amendment

Same as the House bill.

2. DRG Rates

A. SEPARATE RATES

Present law

No provision.

House bill

Under the House bill, separate payment rates would apply to urban and rural areas in each of the 9 census divisions (the 50 States and the District of Columbia).

Senate amendment

Under the Senate amendment, separate payment rates would apply to urban and rural areas in each of the 4 census regions (the 50 States and the District of Columbia).

Conference agreement

The conference agreement follows the House bill.

B. TERMINATION OF REGIONAL ADJUSTMENTS

Present law

No provision.

House bill

Under the house bill, regional adjustments (i.e., by census divisions) would no longer apply after the fourth year of the program.

Senate amendment

Under the Senate amendment, regional adjustments (i.e., by census regions) would no longer apply after the third year of the program.

Conference agreement

The conference agreement follows the Senate amendment as it applies to the 9 census divisions.

3. Effective Date/Transition

A. PHASE-IN PERIOD

Present law

Under present law, the section 223 limits are authorized indefinitely; the rate of increase limits will not apply to hospital cost reporting periods beginning on or after October 1, 1985.

House bill

Under the House bill, implementation of the new prospective payment system would be phased in over a 3-year period, starting with each hospital's first cost reporting period beginning on or after October 1, 1983. During year one, 25% of the payment would be based on regional DRG rates; 75% of the payment would be based on each hospital's cost base. In year two, 50% of the payment would be based on regional DRG rates and 50% on each hospital's cost base. In year three, 75% of the payment would be based on regional DRG rates and 25% would be based on each hospital's cost base. In year four, 100% of the payment would be determined under the DRG payment methodology. In year five, 100% of the payment would be determined under a national DRG payment methodology.

Senate amendment

The Senate amendment contains a similar provision, except that during year one, 25% of the payment would be based on a combination of national and regional DRG rates (25% national, 75% regional); 75% would be based on each hospital's cost base. In year two, 50% of the payment would be based on a combination of national and regional DRG rates (50% each); 50% would be based on each hospital's cost base. In year three, 75% of the payment would be based on a combination of national and regional DRG rates (75% national, 25% regional); 25% would be based on each hospital's cost base. In year four, 100% of the payment would be determined under the national DRG payment methodology.

Conference agreement

The conference agreement follows the Senate amendment with modifications. Under the agreement, implementation of the prospective payment system would be phased-in over a 3-year period. During year one, 25% of the payment would be based on regional DRG rates; 75% would be based on each hospital's cost base. In year two, 50% of the payment would be based on a blend of national and regional DRG rates (25% national, 75% regional); 50% of the payment would be based on each hospital's cost base. In year three, 75% of the payment would be based on a blend of national and regional DRG rates (50% national, 50% regional); 25% of the payment would be based on each hospital's cost base. In year four, 100% of the payment would be determined under the national DRG payment methodology.

B. CALCULATION OF COST-BASED PORTION OF PAYMENT

Present law

No provision.

House bill

Under the House bill, for the first 2 reporting periods, the calculation of that portion of a hospital's payment which is cost-based would be the lesser of the hospital's payment under the rate of increase limits, without the penalties and bonuses of present law, or the section 223 limits without regard to any exemptions, exceptions or adjustments thereto. For the third reporting period, the calculation of the cost-based portion would be the hospital's payment under the rate of increase limit only.

Senate amendment

Same provision, except the Section 223 limits would not apply.

Conference agreement

The conference agreement follows the Senate amendment. The managers note that during the phase-in period, some portion of the prospective payment rate will be related to each hospital's own experience in a base cost reporting year. The managers recognize that, in some cases, the Secretary will have to use estimates to adjust some portions of the hospital's base year experience to make it comparable to inpatient operating costs that will be paid under the prospective system—e.g., FICA taxes that would have been paid if the hospital had been in the social security system or the adjustment needed to exclude the nursing differential which is no longer payable. Since the hospital's specific portion of the rate must be determined in advance of the hospital's first fiscal year under the system, the managers expect the Secretary will use the best data available at that time to determine operating costs for the purposes of the phase-in.

C. MAINTENANCE OF COST-REPORTING SYSTEM

Present law

Under present law, hospitals are required to file annual cost reports which are used to determine the amount of each hospital's reasonable cost reimbursement.

House bill

Under the House bill, the Secretary would be required to maintain a system of cost reporting during the period of transition to the new prospective payment system and for at least two years after full implementation of the new payment program (at least until the end of fiscal year 1988).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill. The managers intend that the Secretary consider the needs of the States prior to changing cost-reporting requirements. Many States use the medicaid cost reports for purposes of reimbursement under the medicaid program. It is the managers' intention that extensive cost reports be maintained, at least during the first year of implementation, in order to allow States time to adjust their medicaid reporting requirements.

4. Area Wage Adjustment

Present law

Under present law, an adjustor, using Bureau of Labor Statistics data for hospital wages, is used under current section 223 limits to adjust for area differences in hospital wage levels.

House bill

Under the House bill, DRG rates would be adjusted for area differences in hospital wage levels compared to the national average hospital wage level.

Senate amendment

Under the Senate amendment, DRG rates would be adjusted for area differences in hospital wage levels compared to the national or regional average hospital wage levels as appropriate.

Conference agreement

The conference agreement follows the House bill.

5. Initial Payment Level

A. GENERAL

Present law

Under present law, medicare payments to hospitals are made according to the lower of actual reasonable costs, the section 223 total cost limits, or the rate of increase limits added by TEFRA. The TEFRA rate of increase limits are based on each hospital's historical costs. These costs are updated by the marketbasket of goods and services purchased by hospitals, plus 1 percentage point.

House bill

Under the House bill, the rates for each DRG would be derived from historical medicare cost data for each hospital. The rates would be updated to fiscal year 1983 by the estimated industry-wide actual increase in hospital costs. The rates would be further updated for fiscal year 1984 by the increase in the marketbasket plus 1 percentage point. In fiscal year 1984, the DRG rates would be reduced, as may be required, to achieve budget neutrality in relationship to the reimbursement levels that would have applied under the TEFRA legislation.

Senate amendment

Same as the House bill.

B. SERVICES COVERED

Present law

Under present law, services provided to medicare beneficiaries who are inpatients of a hospital are ordinarily billed under part A and reimbursed on a reasonable cost basis. However, some payments for certain non-physician services rendered to inpatients are billed by suppliers of services under part B on a reasonable charge basis.

House bill

Under the House bill, effective October 1, 1983, all non-physician services provided in an inpatient setting would be paid only as inpatient hospital services under part A, except as provided below.

The Secretary is given authority to waive these restrictions, and to provide for adjustments in the DRG payments rates, for hospitals which can demonstrate to the Secretary that their practices prior to October 1, 1982, were such that their services were extensively billed independently under part B. Such hospitals could be permitted, by the Secretary, to continue such billing arrangements during the transition period for phasing-in the prospective payment system. Such arrangements would not be recognized once the prospective payment system is fully implemented. The Secretary would estimate, each year, amounts that would have been reimbursed under part B for inpatient hospital services (other than physician services) and include, each year, in the base rate for determining the DRG payment rates an approximation of this amount.

Senate amendment

The Senate amendment would also provide payment for all non-physician services provided to hospital inpatients, effective October 1, 1983, only as inpatient hospital services, except that the Secretary may waive these restrictions during the transition period in the case of hospitals that have allowed direct billing under part B so extensively that immediate compliance with such restrictions would threaten the stability of patient care. The Secretary could allow continued payment of part B billings as long as he or she subsequently deducted the total amount for these billings from the payments made under the prospective system to the hospital. If such a waiver is granted, the Secretary, at the end of the transition, may provide for such methods of payment under part A as is appropriate given the organizational structure of the institution.

Conference agreement

The conference agreement follows the Senate amendment with a modification requiring the Secretary to define, by regulation for this purpose, non-physician services which would be considered inpatient hospital services covered by prospective DRG-based payments.

C. ADJUSTMENTS FOR SOCIAL SECURITY

Present law

Under present law, a downward adjustment is made to a hospital's medicare payment to account for a hospital's withdrawal from the Social Security system.

House bill

Under the House bill, the provision in present law would be repealed.

Senate amendment

Under the Senate amendment, the provision also would be repealed. In addition, in setting the initial payment rates, the Secretary would be required to recognize the payroll costs some hospitals will incur as the result of being required to enter the Social Security system, by adjusting base costs for individual hospitals and by adjusting the DRG prospective rates to include these additional costs.

Conference agreement

The conference agreement follows the Senate amendment.

6. Annual Updates

A. ANNUAL INCREASE

Present law

Under present law, the rate of increase limits are updated by the increase in a marketbasket of goods and services purchased by hospitals, plus 1 percentage point.

House bill

Under the House bill, for fiscal year 1985, payment amounts from the previous fiscal year would be increased by the marketbasket, plus 1 percentage point. There would be an overall budget limitation to maintain budget neutrality for fiscal year 1985.

Senate amendment

Same as the House bill.

B. SECRETARY'S DETERMINATION OF ANNUAL INCREASE FACTOR

Present law

No provision.

House bill

Under the House bill, taking into consideration the recommendations of the panel, the Secretary must determine, for each fiscal year beginning with fiscal year 1986, the appropriate increase factor.

Senate amendment

Under the Senate amendment, taking into consideration the recommendations of the commission, the Secretary must determine, for each fiscal year beginning with fiscal year 1986, the increase factor; such factor must assure adequate compensation for the efficient and effective delivery of medically appropriate and necessary care of high quality.

Conference agreement

The conference agreement follows the Senate amendment with a modification which requires that the Secretary, in determining the increase factor, must take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality.

C. PUBLICATION OF SECRETARY'S DETERMINATION

Present law

No provision.

House bill

Under the House bill, the Secretary must publish in the Federal Register (1) not later than the June 1 before each fiscal year beginning with fiscal year 1986, his or her determination of the proposed increase factor and (2) not later than the September 1 before such fiscal year, his or her final determination of the increase factor. The Secretary must include in the publication due by June 1 the report of the panel's recommendations for that fiscal year.

Senate amendment

Same as the House bill.

D. EXPERT PANEL/COMMISSION'S DETERMINATION OF ANNUAL INCREASE FACTOR

Present law

No provision.

House bill

The House bill requires the Secretary to appoint a panel of independent experts to review the increase factor and make recommendations to the Secretary on the appropriate percentage increase for fiscal years beginning with fiscal year 1986. The panel must take into account changes in the marketbasket, hospital productivity, technological and scientific advances, quality of care, and utilization of relatively costly, though effective, methods of care.

Senate amendment

The Senate amendment contains a similar provision, except the review of the increase factor and recommendations to the Secretary would be conducted by a commission selected by the Office of Technology Assessment, and would begin with fiscal year 1986.

Conference agreement

The conference agreement follows the Senate amendment.

E. EXPERT PANEL/COMMISSION'S REPORT ON ANNUAL INCREASE FACTOR

Present law

No provision.

House bill

Under the House bill, the panel must report its recommendations on the increase factor to the Secretary not later than May 1 before the beginning of each fiscal year, beginning with fiscal year 1986.

Senate amendment

Under the Senate amendment, the commission must report its recommendations on the increase factor to the Secretary not later than April 1 before the beginning of each fiscal year, beginning with fiscal year 1986.

Conference agreement

The conference agreement follows the Senate amendment.

7. Recalibration of DRG's

A. SECRETARY'S DETERMINATION OF DRG RECALIBRATION

Present law

No provision.

House bill

Under the House bill, the Secretary would be required to establish (and would be permitted from time to time to make changes in) a system of classification of inpatient hospital discharges by DRGs and a methodology for classifying specific hospital discharges within the DRGs. For each DRG, the Secretary would be required to assign (and would be permitted from time to time to recompute) an appropriate weighting factor which reflects the relative hospital resources used for discharges classified within that DRG compared to resources used for discharges classified in other DRGs.

Senate amendment

The Senate amendment contains a similar provision except the Secretary would be required to adjust the classifications and weighting factors at least once every 3 years to reflect changes in treatment patterns, technology, and other factors which may change the relative use of hospital resources.

Conference agreement

The conference agreement follows the Senate amendment with a modification requiring the Secretary to adjust the DRG classifications and weighting factors for fiscal year 1986 and subsequently, as necessary, but no less often than once every four years.

B. EXPERT COMMISSION'S DETERMINATION OF DRG RECALIBRATION

Present law

No provision.

House bill

No provision.

Senate amendment

Under the Senate amendment, the commission would be required to consult with, and make recommendations to, the Secretary with respect to changes in the DRGs, based on its evaluation of scientific evidence with respect to new practices, including the use of new technologies and treatment modalities. The commission must report to Congress its evaluation of any adjustments to the DRGs made by the Secretary.

Conference agreement

The conference agreement follows the Senate amendment.

8. ATYPICAL CASES/OUTLIERS

A. BASIS FOR OUTLIER PAYMENTS

Present law

No provision.

House bill

Under the House bill, the Secretary would be required to make additional payments where the length of stay for any case in a DRG exceeds, by more than 30 days, the average length of stay for cases within the same DRG. In addition, if a case has some other unusual length of stay or unusual cost, the Secretary could provide additional payment amounts.

Senate amendment

Under the Senate amendment, the Secretary would be required to make additional payments where (1) the length of stay exceeds the mean length of stay by some fixed number of days or (2) by a certain number of standard deviations, whichever is less. Hospitals would be permitted to appeal for additional payments for cases where charges adjusted to costs are equal to or greater than some multiple of the DRG rates or some dollar criterion, whichever is greater.

Conference agreement

The conference agreement follows the Senate amendment. The managers are equally concerned that adjustments may be required for cases which have an unusually short length of stay or which are significantly less costly than the DRG payment. The Secretary would be required to report on this with recommendations on how to address this issue.

B. PAYMENT LEVELS FOR OUTLIER CASES

Present law

No provision.

House bill

Under the House bill, the additional payment amounts per case would be determined by the Secretary.

Senate amendment

Under the Senate amendment, the amount of additional payments would be determined by the Secretary and approximate the marginal cost of care beyond the outlier cut-off criteria (days or dollar amounts).

Conference agreement

The conference agreement follows the Senate amendment.

C. TOTAL PROPORTION OF OUTLIER PAYMENTS

Present law

No provision.

House bill

Under the House bill, the Secretary would be required to provide additional payments for outlier cases amounting to not less than 4 percent of total DRG related payments.

Senate amendment

Under the Senate amendment, the Secretary would be required to provide additional payments for outlier cases amounting to not less than 5 percent, and not more than 6 percent, of total projected or estimated DRG related payments.

Conference agreement

The conference agreement follows the Senate amendment.

9. CAPITAL EXPENSES

A. CAPITAL IN GENERAL

Present law

Under present law, medicare reimburses hospitals for the reasonable costs of capital (including depreciation, interest and rent).

House bill

Under the House bill, capital expenses, as defined by the Secretary, would be specifically excluded from the prospective payment proposal and would continue to be reimbursed on a reasonable cost basis.

Senate amendment

Under the Senate amendment, capital expenses, as defined by the Secretary, would be specifically excluded from the prospective payment system until October 1, 1986, during which time they would continue to be reimbursed on a reasonable cost basis. After October 1, 1986, such expenses would no longer be excluded.

Conference agreement

The conference agreement follows the Senate amendment. The managers intend that capital, as defined by the Secretary, includes return on equity. The managers also note that the Secretary is required to complete, within 18 months, a thorough review of the methods by which capital, including return on equity, can be incorporated into the prospective payment system. The managers expect that additional legislation will be enacted by Congress to deal with capital-related issues under the prospective payment system before October 1, 1986. However, if the Secretary has implemented a system of prospective payment for capital without legislative action and the mandatory section 1122 capital planning approval provision has gone into effect, the conferees intend that the Secretary will adjust the prospective payment for capital to reflect a disapproval project under section 1122.

B. RETURN ON EQUITY

Present law

Under present law, medicare reimburses proprietary institutions a return on equity.

House bill

The House bill provides for the phase-out of return on equity for hospitals under the prospective payment system over the three-year transition period during which the cost-based payment is being phased out (75% in the first year, 50% in the second year and 25% in the third year). No payment for a return on equity would be made for cost reporting periods beginning on or after October 1, 1986.

Senate amendment

No provision.

Conference agreement

Under the conference agreement, effective with respect to cost reporting periods beginning on or after the date of enactment, the rate of return on equity will be reduced from one and one-half times to an amount equal to the rate of interest paid by the Federal Treasury on the assets of the Hospital Insurance Trust Fund.

C. NEW CAPITAL

Present law

No provision.

House bill

The House bill expresses the intent of Congress that, in implementing a system for including capital-related costs under a prospective payment system, costs related to capital projects initiated on or after March 1, 1983, may be distinguished and treated differently from projects initiated before such date.

Senate amendment

The Senate amendment expresses the intent of Congress that, in implementing a system for including capital-related costs under a prospective payment system, costs related to capital projects initiated on or after the effective date of the implementation of such system may or may not be distinguished and treated differently from projects initiated before such date.

Conference agreement

The conference agreement follows the Senate amendment. The managers believe no assurances can be given that, under a new system of paying for capital, projects obligated (as defined by regulations under section 1122) after the date of enactment of this legislation will continue to be paid on a reasonable cost basis.

D. SECTION 1122 CAPITAL APPROVAL

Present law

Under present law, the Secretary is authorized to exclude from reimbursement to providers certain costs related to capital expenditures that have been disapproved by a section 1122 planning agency.

House bill

Under the House bill, at the end of 3 years, medicare would not make payment for a new capital project unless the State had a section 1122 capital approval process and the capital expenditures had been recommended by the State under such mechanism.

Senate amendment

The Senate amendment changes for cost reporting periods prior to October 1, 1986: (1) the financing of reviews of capital projects from the Hospital Insurance Trust Fund to general revenues; (2) increases the amount of capital projects that is subject to the 1122 approval process from $100,000 to $600,000; (3) exempts from the review process expenditures made by or on behalf of a health care facility where 75 percent of the patients using the services of such facility are enrollees in HMO's or CMP's and such expenditures are for services and facilities needed by such organization to operate efficiently; and (4) requires hospitals to make their overall expenditure plans and capital budgets available to section 1122 agencies.

Conference agreement

The conference agreement follows the provision in the House bill with the following modification: the requirement that medicare payment for new capital projects be conditional on section 1122 approval would be effective October 1, 1986, only if no legislation were enacted by that date which includes capital-related costs in the prospective reimbursement system. In addition, effective upon enactment: (1) the financing of reviews of capital projects would be made from general revenues; (2) the maximum threshold a State may use for determining which capital projects are subject to the section 1122 review process would be increased from $100,000 to $600,000; States would be permitted to set a lower threshold; (3) in order for a health care facility, where 75 percent of the patients are HMO or CMP enrollees, to be exempt from the section 1122 review process because needed services and facilities are not otherwise readily accessible, the organization must establish that one of the following five conditions is met:

(a) the facilities are geographically dispersed

(b) the facilities are not available under a contract of reasonable duration

(c) full and equal medical staff privileges are not available

(d) the arrangements are not administratively feasible, or

(e) the services are more costly than if provided by the HMO or CMP; and

(4) hospitals would be required to make their overall expenditure plans and capital budgets available to the section 1122 or other appropriate agency.

10. MEDICAL EDUCATION EXPENSES

A. DIRECT COST

Present law

Under present law, medicare reimburses direct medical education expenses, such as the salaries of interns and residents in approved education programs, on the basis of reasonable cost.

House bill

Under the House bill, direct medical expenses for approved educational programs would be specifically excluded from payment determinations under the prospective payment system and would be paid on the basis of reasonable cost.

Senate amendment

Same as the House bill.

B. INDIRECT COST

Present law

Under present law, the section 223 limits provide an adjustment to recognize individual hospital differences in indirect costs due to approved teaching activities.

House bill

Under the House bill, the Secretary is required to provide additional payment amounts under the prospective payment system for hospitals with indirect costs of medical education. The adjustment for such payment amounts would equal twice the section 223 adjustment, provided under regulations, in effect as of Jan. 1, 1983, for such costs.

Senate amendment

Same as the House bill.

11. EXEMPTIONS, EXCEPTIONS, AND ADJUSTMENTS

A. PAYMENTS TO EXEMPTED HOSPITALS AND HOSPITAL UNITS

Present law

No provision.

House bill

Under the House bill, hospitals or units of hospitals exempted from the prospective payment system would be subject to the section 223 limits (until hospital cost reporting periods beginning on or after October 1, 1985) and the rate of increase limits applicable under current law.

Senate amendment

The Senate amendment contains a similar provision, except the section 223 limits would no longer apply for hospital cost reporting periods beginning on or after October 1, 1983.

Conference agreement

The conference agreement follows the Senate amendment.

B. PSYCHIATRIC, LONG-TERM CARE, AND CHILDREN'S HOSPITALS

Present law

Under present law, section 223 limits do not apply to children's hospitals, long-term care hospitals or to rural hospitals with less than 50 beds. In addition, the Secretary is required to provide exemptions, exceptions, and adjustments to the section 223 limits as he or she deems appropriate to take into account the special needs of psychiatric hospitals.

House bill

Under the House bill, psychiatric, long-term care, children's and rehabilitation hospitals would be specifically exempted from the prospective payment system. Upon request of a hospital, rehabilitation and psychiatric units which are distinct parts of acute care hospitals would also be specifically exempted.

Senate amendment

The Senate amendment contains a similar provision, except (1) hospitals would not have to request exemptions for distinct parts of rehabilitation or psychiatric units and (2) exemptions of any such hospitals or hospital units would no longer apply when the Secretary determines that adequate data of clinical and statistical significance is available to include these institutions and units under the prospective payment system.

Conference agreement

The conference agreement follows the provision in the House bill with a modification that deletes the provision which conditions granting of an exemption on the receipt by the Secretary of a request from a hospital.

C. SOLE COMMUNITY HOSPITALS

1. Payments

Present law

Under present law, the Secretary is required to provide exemptions, exceptions, and adjustments to the section 223 limits as he or she deems appropriate to take into account the special needs of sole community hospitals.

House bill

Under the House bill, the Secretary would be authorized to provide exceptions and adjustments to take into account the special needs of sole community hospitals.

Senate amendment

Under the Senate amendment, payments to sole community hospitals for hospital cost reporting periods beginning on or after October 1, 1983, would be on the same basis, as payments to all other providers in the *first* year of the transition period: 25% of the payment would be based on a blend of national and regional DRG rates (25% national, 75% regional); 75% would be based on each hospital's own cost base. In no case would total medicare payments in those cost reporting years beginning on or after October 1, 1983, and before October 1, 1986, be less than the payments made in the preceding year.

Conference agreement

The conference agreement follows the provision in the Senate bill with modifications: (1) Conforms the basis of payment to the first-year blend of payment rates applicable to other hospitals agreed to by the conferees (item 3a); and (2) where a sole community hospital experiences a change of more than 5 percent in its total volume over a previous year, due to circumstances beyond its control, the Secretary would be required to provide, for 3 years, an adjustment to fully compensate the hospital for the fixed costs it incurs and for the reasonable cost of maintenance of core staff and services.

2. Definition

Present law

No provision.

House bill

Under the House bill, "sole community hospitals" are defined as those that, by reason of factors such as isolated location or absence of other hospitals (as determined by the Secretary), is the sole source of inpatient hospital services reasonably available in a geographical area to part A medicare beneficiaries.

Senate amendment

The Senate amendment contains a similar provision, except includes weather and travel conditions in the list of factors defining a sole community hospital.

Conference agreement

The conference agreement follows the Senate amendment.

D. PUBLIC AND OTHER HOSPITALS

Present law

Under present law, the Secretary is required to provide exemptions, exceptions, and adjustments to the section 223 limits as he or she deems appropriate to take into account the special needs of public and other hospitals that serve a disproportionate number of low income or part A medicare beneficiaries.

House bill

Under the House bill, the Secretary would be required to provide exceptions and adjustments, as he or she deems appropriate, to take into account the special needs of public or other hospitals that serve a disproportionately large number of low-income or part A medicare beneficiaries.

Senate amendment

The Senate amendment contains a similar provision, except also applies to regional and national referral centers (including very large acute care hospitals in rural areas).

Conference agreement

The conference agreement follows the Senate amendment.

E. OTHER PROVIDERS

Present law

Under present law, the Secretary is required to provide exemptions, exceptions, and adjustments to the "section 223" and the rate of increase limits as he or she deems appropriate to take into account the special needs of new hospitals, risk-based health maintenance organizations, hospitals providing atypical or essential services and to take account of extraordinary circumstances beyond a hospital's control; and for other purposes.

House bill

Under the House bill, the Secretary is required to provide, by regulation, for such exceptions and adjustments as he or she deems appropriate (including those that may be appropriate with respect to public and teaching hospitals and hospitals involved extensively in treatment for, and research on, cancer).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the provision in the House bill with a modification which deletes the requirement with respect to public and teaching hospitals. The conferees wish to make it clear that this authority permits the Secretary to provide for such exceptions and adjustments as may be appropriate with respect to hospitals experiencing special problems because of their location in a particular census division.

F. ALASKA AND HAWAII

Present law

Under regulation, special adjustments are provided to the section 223 limits for hospitals in Alaska and Hawaii.

House bill

Under the House bill, the Secretary is authorized to provide adjustments to the DRG payment amounts as he or she deems appropriate to take into account the unique circumstances of hospitals located in Alaska and Hawaii.

Senate amendment

Same as the House bill.

G. HOSPITALS IN TERRITORIES, INCLUDING PUERTO RICO

Present law

No provision.

House bill

The House bill exempts from the prospective payment system hospitals located outside the fifty States or the District of Columbia (e.g., the territories, including Puerto Rico).

Senate amendment

Same as the House bill. (See study section.)

12. Admissions and Quality Review

A. CONTRACTS WITH PROFESSIONAL REVIEW ORGANIZATIONS

Present law

Present law (title XI of the Social Security Act) requires the Secretary to enter into contracts for utilization and quality control peer review with professional review organizations (PROs) or other review organizations, including medicare intermediaries (subject to certain conditions and limitations).

House bill

Under the House bill, effective October 1, 1984, as a condition for receipt of medicare payments, a hospital receiving payments according to the prospective DRG rates would be required to contract with a peer review organization, in the area, designated by the Secretary under Title XI for the review of admissions, discharges, and quality of care with respect to medicare hospital inpatient services. The 12-month waiting period for intermediaries to qualify as review organizations as specified in present law would begin on the date the Secretary enters into contracts or on October 1, 1983, whichever is earlier.

Senate amendment

Under the Senate amendment, hospitals receiving payments under the prospective payment system would be required to enter into an agreement with a peer review organization (if such as organization has a contract with the Secretary under title XI for the area in which the hospital is located). The purpose of this contract is to provide for the review of the validity of the diagnostic information provided by such hospitals, the completeness and adequacy of the care provided, the appropriateness of admissions, and the appropriateness of care provided to patients designated by the hospitals as outliers. These reviews would be covered as a hospital cost of care under part A but the PRO would be paid by the Secretary on behalf of the hospital on the basis of a rate per review established by the Secretary. The amount expended will be no less than an amount which reflects the rates per review established in fiscal year 1982 for both direct and administrative costs, adjusted for inflation, and will be expended from the trust fund and not subject to appropriations.

Conference agreement

The conference agreement follows the Senate amendment with modifications. Under the agreement, (1) hospitals receiving payments under the prospective payment system would be required from the date of enactment through September 30, 1983, to contract with a professional review organization (PRO), if there is a PRO in the area which has contracted with the Secretary under title XI: (2) such hospitals would be required, on or after October 1, 1984, to contract with a PRO, in the area, designated by the Secretary under title XI as a condition of receiving payments under the medicare program (if the Secretary has not contracted with a PRO in the area such hospitals would not receive payment); (3) the 12-month waiting period for intermediaries to qualify as PROs (as specified in present law) would begin on the date the Secretary enters into contracts or on October 1, 1983, whichever is earlier as in the House bill; (4) where a contract between the Secretary and a PRO is terminated after October 1, 1984, the Secretary would be required to enter into a new contract with a PRO in that area within 6 months of such termination, during which period hospitals would not be penalized because no PRO exists in the area, and (5) the amount expended for review purposes must also be no less than an amount equal to the total expenditures made during 1982 for review costs adjusted for inflation.

B. MONITORING SYSTEM ESTABLISHED BY THE SECRETARY

Present law

No provision.

House bill

Under the House bill, the Secretary would be required to establish a system for monitoring admissions and discharges of both hospitals receiving prospective payment and hospitals reimbursed on a cost basis, utilizing HCFA, medicare intermediaries, professional review organizations/professional standards review organizations, or such other medical review authority, to review admissions and discharge practices and quality of care.

Senate amendment

No provision.

Conference agreement

The conference agreement strikes the provision in the House bill but modifies the review requirements of professional review organizations (PROs) to include review of patterns admissions and discharges and quality of care of hospitals receiving medicare payments.

C. PENALTIES FOR UNACCEPTABLE PRACTICES

Present law

No provision.

House bill

Under the House bill, the Secretary would be authorized to take corrective action where hospitals, paid according to the prospective rates or on a cost basis, were determined to be engaged in unacceptable admissions, medical, or other practices. The Secretary would be permitted to disallow part or all of the medicare payment with respect to an unnecessary or multiple admissions, or to require hospitals to take other corrective action necessary where a provider was determined to have engaged in such practices.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the provision in the House bill with a modification which authorizes the Secretary to take such corrective action based on the findings of the PRO.

13. Payments to HMO's and CMP's

Present law

Current law provides that health maintenance organizations (HMO's) and competitive medical plans (CMP's) may be reimbursed either on the basis of reasonable costs or under a risk-based contract, a payment equal to 95% of the adjusted average per capita cost (AAPCC) for medicare enrollees in the HMO's area.

House bill

Under the House bill, the proposal would permit, at its election, an HMO or a CMP that receives medicare payments on a risk basis to choose to have the Secretary directly pay hospitals for inpatient hospital services furnished to medicare enrollees of the HMO or CMP. The payment amount would be at the DRG rate (or on the basis of reasonable cost, as applicable) and would be deducted from medicare payments to the HMO or CMP.

Senate amendment

Similar provision.

Conference agreement

The conference agreement follows the provision in the House bill with a technical amendment.

14. STATE COST CONTROL SYSTEMS

A. AUTHORITY UNDER PRE-TEFRA LEGISLATION

Present law

Under present law, the Secretary has authority to establish medicare demonstration projects. There are currently four Statewide medicare demonstrations (MD, NJ, NY, and MA) and one area-wide (Rochester, NY) demonstration.

House bill

Under the House bill, the Secretary would be expressly authorized to continue to develop, carry out, or maintain medicare experiments and demonstration projects.

Senate amendment

Same as the House bill.

B. AUTHORITY FOR STATE PROGRAMS

Present law

Present law authorizes the Secretary, at the request of a State, to pay for medicare services according to the State's hospital cost control system if such system—

(1) applies to substantially all non-acute care hospitals in the State;

(2) applies to at least 75% of all inpatient revenues or expenses in the State;

(3) provides assurances that payors, hospital employees and patients are treated equitably; and

(4) provides assurances that the State's system will not result in greater medicare expenditures over a three-year period than would otherwise have been made. (To date, no State systems have been approved under this authority).

House bill

Under the House bill, the Secretary would be prohibited from (1) denying a State application on the ground that the State's system is based on a payment methodology other than DRGs, or (2) requiring that medicare expenditures under the State's system be less than the expenditures which would have been made under the Federal prospective payment system. It includes the 4 requirements in TEFRA for approval of a State system and adds a fifth requirement: if the Secretary determines that the State system will not preclude an HMO or CMP from negotiating directly with hospitals with respect to payment for inpatient hospital services.

Senate amendment

The Senate amendment contains the same provision, except adds a sixth requirement that States must provide for a prohibition on payments under part B for nonphysician services provided to inpatients.

Conference agreement

The conference agreement follows the Senate amendment with a modification under which the Secretary would be required to issue regulations setting forth the conditions under which States could waive restrictions under State systems relating to payments for certain non-physician services provided to hospital inpatients.

C. CONTINUATION OF CURRENT STATE PROGRAMS

Present law

No provision.

House bill

Under the House bill, for those States which currently have a medicare waiver the Secretary would be required to continue the State program if, and for so long as, the conditions described above are met.

Senate amendment

Same as the House bill.

D. REQUIRED STATE PROGRAMS

Present law

No provision.

House bill

Under the House bill, the Secretary would be required to approve any State program which meets the following 6 requirements in addition to the conditions indicated above, that the system: (1) is operated directly by the State or an entity designated by State law; (2) is prospective; (3) provides for hospitals to make such reports as the Secretary requires; (4) provides satisfactory assurances that it will not result in admissions practices which will reduce treatment to low income, high cost, or emergency patients; (5) will not reduce payments without 60 days notice to the Secretary and to hospitals; and (6) provides satisfactory assurances that, in the development of its program, the State has consulted with local officials concerning the impact of the program on publicly owned hospitals.

The Secretary would be required to respond to requests from States applying under these 11 conditions within 60 days of the date the request is submitted.

Senate amendment

Same as the House bill.

E. MODIFICATION OF EXISTING CONTRACTS

Present law

Under current demonstration project agreements between the Secretary and the States of New York and Massachusetts, the States are required to maintain a rate of increase in medicare hospital costs which is 1.5 percent below the national rate of increase in such costs.

House bill

Under the House bill, the Secretary would be required, upon request of a State, to modify the terms of an existing demonstration agreement (entered into after August 1982 and in effect as of March 1, 1983—New York and Massachusetts) so that the demonstration project is not required to maintain the rate of increase in medicare hospital costs in that State below the national rate of increase in such costs.

Senate amendment

The Senate amendment contains a similar provision, except provides that such demonstration agreements be modified so that the percentage by which such project is required to maintain a rate of increase in such costs in that State below the national rate of increase be decreased by one-half of one percentage point for the contract year, beginning in 1983, by an additional one-half of 1 percentage point for the contract year beginning in 1984, and by an additional one-quarter of 1 percentage point for the contract year beginning in 1985.

Conference agreement

The conference agreement follows the House bill with a modification permitting either the State or the party to the agreement to request a modification of the contract.

F. JUDGING THE EFFECTIVENESS OF STATE SYSTEMS

Present law

No provision.

House bill

No provision.

Senate amendment

Under the Senate amendment, during the 3 cost reporting periods beginning on or after October 1, 1983, for existing State systems, the Secretary must judge their effectiveness on the basis of their rate of increase or inflation in medicare inpatient hospital payments compared to the national rate of increase or inflation for such payments. The State would retain the option to have the test applied on the basis of either aggregate payments per inpatient admission or discharge. After the transition period, this test would no longer apply, and such State systems would be treated in the same fashion as other waivered systems.

Conference agreement

The conference agreement follows the Senate amendment.

G. REDUCTION IN PAYMENTS TO HOSPITALS WHICH EXCEED EXPENDITURE LIMITS

Present law

No provision.

House bill

No provision.

Senate amendment

Under the Senate amendment, if the Secretary determines that the amounts paid over a three-year period under a State system exceed what medicare would have otherwise paid over the same three-year period, the Secretary may reduce subsequent payments to hospitals under the State system by that amount.

Conference agreement

The conference agreement follows the Senate amendment. The managers expect that the Secretary will provide a State, at least annually, with such information as is needed to keep the hospitals in a State fully informed, on an estimated or other basis, of the projected potential liabilities that could result if medicare expenditures in the State exceed the medicare expenditures which would have been made in the absence of the State system.

15. ADMINISTRATIVE AND JUDICIAL REVIEW

A. LIMITATION

Present law

Under present law, a provider may request administrative review of a final decision of a fiscal intermediary by the Provider Reimbursement Review Board (PRRB). A provider may appeal the PRRB decision to Federal court or, where it involves a question of law or regulation which the PRRB does not have the authority to review, the provider may appeal directly to Federal court.

House bill

Under the House bill, permits administrative and judicial review in all cases except the narrow items necessary to maintain budget neutrality: (1) the level of the payment amount, and (2) the establishment of the DRG classifications.

Senate amendment

Same as the House bill.

B. VENUE

Present law

Under present law, an individual provider may bring suit in the judicial district in which it is located or the District of Columbia. Groups may bring suit only in the District of Columbia.

House bill

No provision.

Senate amendment

The Senate amendment permits action to be brought jointly by several providers in a judicial district in which the greatest number of such providers is located. Any appeals to the PRRB for action for judicial review brought by providers which are under common ownership or control would have to be brought by providers as a group with respect to any matter involving an issue common to such providers.

Conference agreement

The conference agreement follows the Senate amendment.

16. STUDIES, REPORTS, AND DEMONSTRATIONS

Present law

No provision.

House bill

Under the House bill, the Secretary is required to study and report to Congress on various topics.

Senate amendment

Under the Senate amendment, the Secretary is also required to study and report to Congress on various topics.

Conference agreement

The conference agreement requires the Secretary to study and report to Congress on the following:

a. Capital-related costs—the method by which capital-related costs, such as return on net equity, associated with inpatient hospital services can be included in the prospective payment system; due within 18 months after enactment.

b. Skilled nursing facilities (SNFs)—

1. The impact of hospital prospective payment systems on skilled nursing facilities and recommendations concerning SNFs; due at the end of 1983.

2. Requires the Secretary to conduct demonstrations with hospitals in areas with critical shortages of SNFs to study the feasibility of providing alternative systems of care or methods of payment.

3. The effect that the implementation of section 102 of TEFRA would have on hospital-based SNFs, given the differences (if any) in the patient populations served by such facilities and by community-based SNFs; due prior to December 31, 1983.

c. Impact of the prospective payment methodology—the impact of the prospective payment methodology during the previous year on classes of hospitals, beneficiaries, other payors for inpatient hospital services, other providers, and the impact of computing averages by census division, rather than national averages; must include the Secretary's recommendations for changes in legislation, as appropriate; due annually at the end of each year for 1984 through 1987.

d. Physician's services to hospital inpatients—during fiscal year 1984, requires the Secretary to begin the collection of data necessary to compute, by DRGs, the amount of physician charges for services furnished to hospital inpatients classified in those DRGs; requires the Secretary to include, in a report to Congress in 1985, recommendations on the advisability and feasibility of providing for the determination of payments based on a DRG-type classification for physician's services furnished to hospital inpatients and legislative recommendations.

e. Urban/rural rates—the feasibility and impact of eliminating or phasing out separate urban and rural DRG prospective payment rates; due at the end of 1985 as part of the 1985 annual report.

f. Prospective payments for hospitals not included in the system—whether, and the method under which, hospitals not paid under the prospective system can be paid on a prospective basis for inpatient services; due at the end of 1985 as part of the 1985 annual report.

g. Payments for outliers/intensity—the appropriateness of the factors used to compensate hospitals for the additional expenses of outlier cases; application of severity of illness, intensity of care, or other modifications to DRG's, and the advisability and feasibility for providing for such modifications; due by the end of 1985 as part of the 1985 annual report.

h. Payments for all payers—the feasibility and desirability of applying a prospective payment methodology to payment by all payers for inpatient hospital services, including consideration of the extent of cost-shifting to non-Federal payers, and the impact of such cost-shifting on health insurance costs and premiums borne by employers and employees; due by January 1, 1985.

i. Impact on admissions—the impact of the prospective payment methodology on hospital admissions and the feasibility of making a volume adjustment in the DRG rates or requiring preadmission certification in order to minimize the incentive to increase admissions; due by the end of 1985 as part of the 1985 annual report.

j. Impact of State systems—the overall impact of State hospital payment systems, approved under either section 1886(c) or other provisions of the Social Security Act, on the medicare and medicaid programs, on payments and premiums under private health insurance plans, and on tax expenditures; due at the end of 1986 as part of the 1986 annual report.

k. Sole community hospitals, information transfer between parts A and B, uncompensated care, and making hospital cost information available—requires the Secretary to study and make legislative recommendations to Congress on an equitable method of reimbursing sole community hospitals, taking into account their unique vulnerability to substantial variations in occupancy; requires the Secretary to examine ways to coordinate an information transfer between parts A and B of medicare, particularly where a denial of coverage is made in the reimbursement to the admitting physician(s); the Secretary also reports on the appropriate treatment of uncompensated care costs and adjustments that might be appropriate for large teaching hospitals; the Secretary also reports on the advisability of having hospitals make available information on the costs of care to patients financed by both public programs and private payors; due prior to April 1, 1985.

l. The territories, including Puerto Rico—requires the Secretary to study and make recommendations to Congress on the method for including hospitals located outside of the 50 States and the District of Columbia under a prospective payment system; due before April 1, 1984.

17. DELAY OF SINGLE REIMBURSEMENT LIMIT FOR SKILLED NURSING FACILITIES (SNFs)

Present law

Under present law, the Secretary is required to establish a single reimbursement limit for both hospital-based and free-standing SNFs to be effective for cost reporting periods beginning on or after October 1, 1982.

House bill

No provision.

Senate amendment

The Senate amendment delays the effective date for the single reimbursement limit for SNFs from cost reporting periods beginning on or after October 1, 1982, to cost reporting periods beginning on or after October 1, 1983.

Conference agreement

The conference agreement follows the Senate amendment.

18. ON LOK DEMONSTRATION

Present Law

No provision.

House bill

No provision.

Senate amendment

Under the Senate amendment, the Secretary would be required to approve, with appropriate terms and conditions as defined by the Secretary, within 30 days of enactment: (1) the risk-sharing application of On Lok Senior Health Services (dated July 2, 1982) for waivers of certain medicare requirements over a period of 36 months in order to carry out a long-term demonstration project, and (b) the application of the California Department of Health Services (dated November 1, 1982) for the waiver of certain medicaid requirements over a period of 36 months in order to carry out a demonstration project for capitated reimbursement for comprehensive long-term care services involving On Lok Senior Health Services.

Conference agreement

The conference agreement follows the Senate amendment.

19. APPOINTMENT, MEMBERSHIP AND ACTIVITIES OF THE EXPERT COMMISSION

A. APPOINTMENT

Present law

No provision.

House bill

No similar provision.

Senate amendment

Under the Senate amendment, the Secretary is required to provide for the appointment of a commission of 15 independent experts, selected and appointed by the Director of the Office of Technology Assessment (OTA). Commission members must be appointed no later than April 1, 1984, for a 3-year term, except that the OTA Director may provide initially for shorter terms to insure that the terms of no more than 7 members will expire in one year. Commission members would be eligible for reappointment for no more than 2 consecutive terms.

The commission's membership must provide expertise and experience in the provision and financing of health care including, but not limited to, physicians and registered professional nurses, employers, third-party payors, and individuals skilled in biomedical, health services, health economics research, and individuals having expertise in the research and development of technological and scientific advances in health care. The OTA Director must seek nominations from a wide range of groups including, but not limited to, (a) national organizations representing physicians, including medical specialty organizations and registered professional nurses and other skilled health professionals; (b) national organizations representing hospitals, including teaching hospitals; and (c) national organizations representing the business community, health benefits programs, labor, the elderly and national organizations representing manufacturers of health care products.

The commission may employ such personnel (not to exceed 50) as may be necessary to carry out its duties. Subject to approval by the OTA Director, the commission must appoint one of its staff members as Executive Director. The commission is authorized to seek assistance and support from appropriate Federal departments and agencies as required. Establishes compensation rates for members of the commission, the Executive Director, and staff.

The Commission is authorized to enter into contracts; make advance, progress, and other payments; accept services of voluntary and uncompensated personnel; acquire, hold, and dispose of real and personal property; and prescribe rules and regulations.

The commission is required to have access to relevant information and data available from Federal agencies and to maintain confidentiality of all confidential information. Establishes a Federal Liaison Committee, consisting of delegates from appropriate Federal agencies, to arrange for the acquisition of information, coordinate its activities with those of Federal agencies, and advise the commission on the activities of Federal agencies. The Administrator of HCFA would be chairman of the committee, and the committee would meet not less than 6 times a year.

OTA must report to Congress on the functioning and progress of the commission and the status of assessment of medical procedures and services by the commission. Such reports must be annual for the first 3 years and biannual thereafter, by March 15 of each year.

There are authorized to be appropriated such sums as may be necessary to carry out the activities of the commission and the committee, 85% payable from the HI Trust Fund and 15% from the SMI Trust Fund.

In order to identify medically appropriate patterns of health resources use, the commission of independent experts would be required to collect and assess information, medical and surgical procedures and services, including information on regional variations of medical practice and lengths of hospitalization and on other patient care data, giving special attention to treatment patterns for conditions appearing to involve excessively costly or inappropriate services not adding to the quality of care provided. Requires the commission, in coordination to the extent possible with the Secretary, in order to assess the safety, efficacy, and cost-effectiveness of new and existing medical and surgical procedures, to collect and assess factual information, giving special attention to the needs of updating existing DRGs, establishing new DRGs, and making recommendations on relative DRG weights to reflect appropriate differences in resource consumption in delivering safe, efficatious, and cost-effective care. In collecting and assessing information, the commission must (1) use existing data where possible, collected and assessed either by its own staff or under other arrangements, and (2) carry out, or award grants or contracts for, original research where existing information is inadequate for the development of useful and valid guidelines by the commission.

With the concurrence of the Secretary, payment is permitted under part A or part B of medicare for expenses incurred for clinical care items and services with respect to research and demonstration conducted by the Secretary or the commission.

Conference agreement

The conference agreement follows the Senate amendment with numerous modifications designed to provide greater flexibility in the operation of the Commission, to reduce its maximum staffing from 50 to 25 individuals, and to provide for OTA oversight of the Commission's administrative activities.

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